

NAVAL POSTGRADUATE SCHOOL

Monterey, California



THESIS

**VIETNAM AND THE SPRATLY ISLANDS
DISPUTE SINCE 1992**

by

Tong Hum Kang

June 2000

Thesis Co-Advisors:

Denny Roy
Lyman Miller

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**VIETNAM AND THE SPRATLY ISLANDS DISPUTE
SINCE 1992**

Tong Hum Kang
Ministry of Defense, Malaysia
B.Soc.Sc. (Hons), University of Science, Malaysia, 1990
Dip. in Public Management, National Institute of Public Administration, Malaysia, 1992

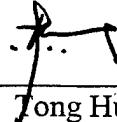
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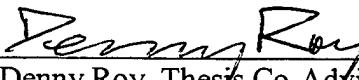
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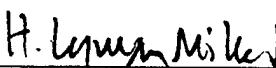
**NAVAL POSTGRADUATE SCHOOL
June 2000**

Author:


Tong Hum Kang

Approved by:


Denny Roy, Thesis Co-Advisor



Lyman Miller, Thesis Co-Advisor



Reuben T. Harris, Chairman
Department of Systems Management

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ABSTRACT

The sovereignty dispute over the Spratlys Islands and jurisdiction in the South China Sea remains an important issue in Asia-Pacific security today. The race to establish the validity of claims has increased diplomatic discord and resulted in armed conflict. Hanoi's behavior in the Spratlys has implications for its relations with Vietnam's neighbors and for regional arrangements generally. This thesis examines Vietnam's approach to the Spratlys dispute since 1992. It concludes that: Hanoi's wooing of ASEAN has helped restrain China and the other claimants in the dispute; that Hanoi's rapprochement with Beijing has helped to limit China from seizing areas in the Spratlys occupied by Vietnam; that Hanoi's diplomacy has slowed Chinese expansionism in the Spratlys, while Hanoi's military build-up since 1992 has not; and Hanoi's appeal to UNCLOS has not helped resolve the dispute on its terms. To resolve the dispute in a peaceful manner, Hanoi must collaborate with the ASEAN states, Taiwan, and the larger Asia-Pacific community to prevent Beijing from dominating the Spratlys and the South China Sea.

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TABLE OF CONTENTS

I.	INTRODUCTION	1
A.	OVERVIEW	1
B.	IMPORTANCE OF STUDY	5
C.	AIM OF THESIS	6
D.	SCOPE OF STUDY	6
E.	STRUCTURE OF THESIS	7
F.	METHOD OF ANALYSIS	7
II.	HISTORICAL BACKGROUND	9
A.	THE OVERLAPPING CLAIMS TO THE SPRATLYS ISLANDS	9
B.	THE VIETNAMESE CLAIM	15
C.	FACTORS RESPONSIBLE FOR THE DISPUTE	21
1.	Choke-point for Vietnam.....	23
D.	DISPUTE SETTLEMENTS OFFERED BY ASEAN AND THE UNITED NATIONS	26
III.	THE VIETNAMESE FOREIGN POLICY EVOLUTION SINCE 1992 AND POLICY ON THE SPRATLYS DISPUTE.....	29
A.	INTRODUCTION	29
B.	VIETNAM'S FOREIGN POLICY	29
1.	New Orientations in Vietnam's Foreign Policy	32
2.	The International Context.....	33
3.	The Domestic Context.....	35
4.	Vietnam's Economic Objectives in the Spratlys	36
C.	THE POLICY ON THE SPRATLYS DISPUTE	40
D.	THE U.S. AND JAPAN'S INTEREST IN THE SPRATLYS DISPUTE	42
IV.	VIETNAM'S STRATEGY TO END THE SPRATLYS DISPUTE.....	45
A.	VIETNAM AND ASEAN.....	45
1.	The Role of ASEAN as Mediator.....	47
B.	VIETNAM AND CHINA.....	51
1.	Vietnam Rapprochement with China.....	59
2.	Vietnam and China Relationship in the Post-Deng Xiao-ping Era	60
C.	THE VIETNAMESE MILITARY BUILD-UP	63
D.	VIETNAM'S OCEAN POLICY THROUGH UNCLOS	67
V.	CONCLUSION	73
A.	WILL THE WOOING OF ASEAN HELP VIETNAM?	74
B.	WILL RAPPROCHEMENT AND DIPLOMACY PREVENT CHINA'S ADVANCES IN THE SPRATLYS AND THE SOUTH CHINA SEA?.....	75

C. WILL VIETNAM'S MILITARY BUILD-UP PREVENT CHINA'S ADVANCES IN THE SPRATLAYS AND THE SOUTH CHINA SEA	76
D. WILL VIETNAM'S APPEAL TO UNCLOS PROVIDE A SOLUTION TO THE DISPUTE?.....	78
E. A PEACEFUL SOLUTION TO THE DISPUTE.....	79
 BIBLIOGRAPHY	81
INITIAL DISTRIBUTION LIST.....	87

LIST OF FIGURES

Figure 1. The Spratly Islands in the South China Sea.....	2
Figure 2. Occupation of the Spratly Islands	10
Figure 3. The Socialist Republic of Vietnam.....	25
Figure 4. Vietnam Petroleum Concession Block Map, Western South China Sea.....	39

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LIST OF TABLES

Table 1. Islands Occupation and Names of the Islands.....	14
Table 2. Oil and Gas in the South China Sea Region.....	37
Table 3. The Military Strength of the Main Actors.....	63

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I. INTRODUCTION

A. OVERVIEW

The South China Sea is an area of 648,000 square miles dotted with hundreds of reefs, islets, rocks, and shoals, all of which are the subject of conflicting territorial claims.¹ As with many islands distant from the mainland, those are claimed by different powers, the Spratly Islands has been the subject of recurrent and concurrent assertion of ownership by various countries, often without the knowledge of other existing claims.²

The Spratly Islands consist of hundreds of islets, coral reefs, atolls, cays, rocks, sand banks, shoals, and sea mounts spread out over seventy thousand square miles of ocean.³ They are located 400 miles east of the Socialist Republic of Vietnam (Vietnam) and 800 miles south of China's Hainan Island, 160 miles north of Borneo, and are almost dead center of the South China Sea. (See Figure 1.) Some of islets are hardly visible at high tide. It has become a disputable concern among six Asian countries over their sovereignty and maritime jurisdiction.

¹ The South China Sea is defined by the International Hydrographic Bureau as the body of water stretching in a Southwest to Northeast direction, whose southern border is 3 degrees South latitude between South Sumatra and Kalimantan (Karimata Straits), and whose northern border is the Strait of Taiwan from the northern tip of Taiwan to the Fukien coast of China. It is known as Eastern Sea to the Vietnamese.

² "Oil-prospective Spratlys still a flashpoint," *Oil & Gas Journal*, vol.97, no. 43, 25 October 1999, pp. 35-36.

³ The Spratly Islands are called Nansha by the Chinese and Truong Sa by the Vietnamese. The names used here and in subsequent chapters are those customarily used internationally.

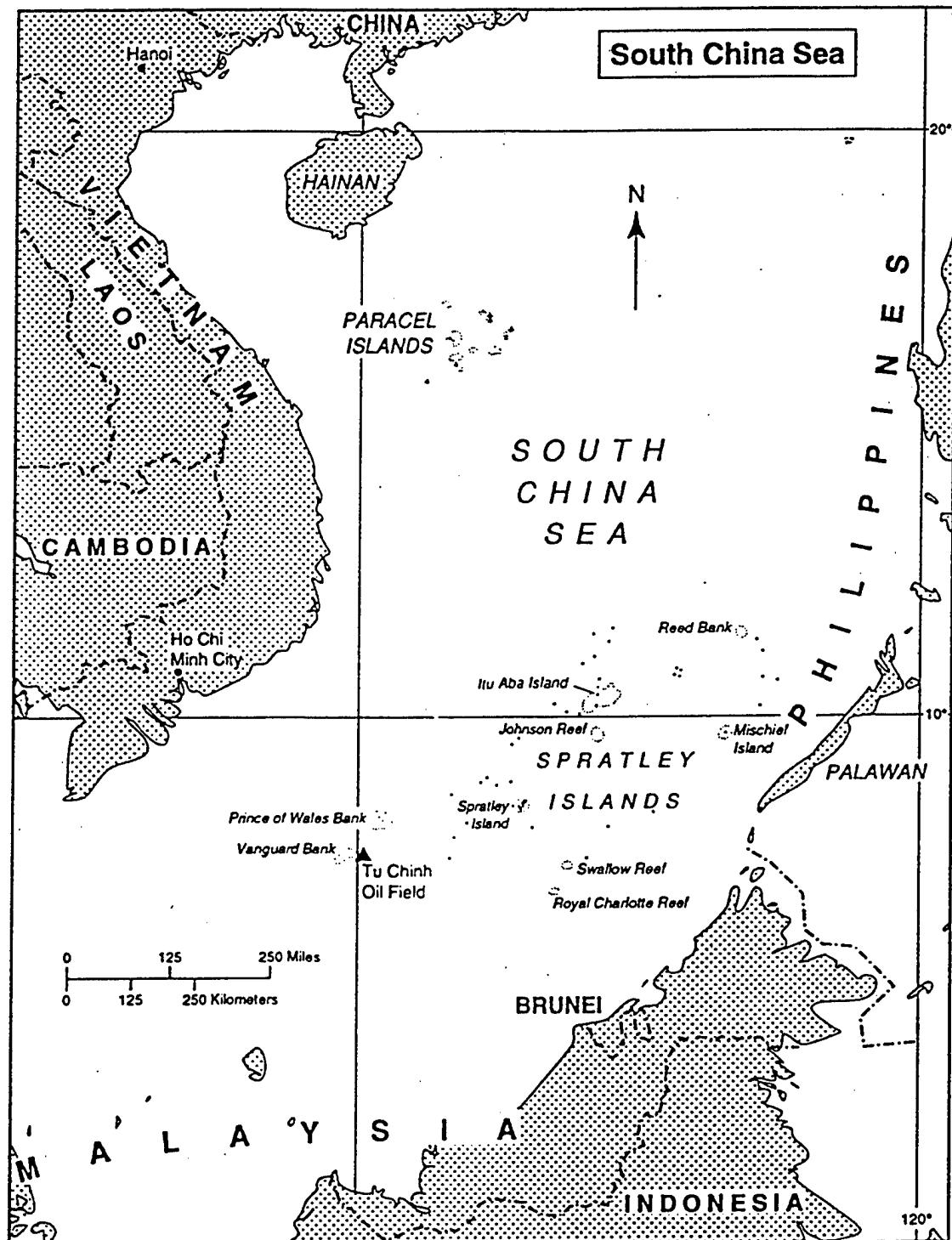


Figure 1: The Spratly Islands in the South China Sea

Source: Tatsumi Okabe, "Coping with China," *Vietnam Joins the World*, p.125.

Since the 1990s, the world has become aware that the conflict over the Spratly Islands could become more than a sideshow spat, and at the least a significant occasion for miscalculation.⁴

For many years, the issue of who owns the Spratly Islands, or some part thereof, has been a lingering problem in Asia. Presently, Vietnam, China, Taiwan, the Philippines, Malaysia and Brunei have laid claims to some of the islands. Vietnam controls the largest area of the territory in the Spratlys while Taiwan occupies Itu Aba, the largest island.⁵

The dispute concerning sovereignty over the Spratly Islands and maritime jurisdiction in the South China Sea remains the most volatile, dangerous, and intractable issue in ocean affairs today. It is also the most discussed, although a great deal of what has been said on the subject is of questionable value, mainly because of the inability of analysts to appreciate or deal with the full complexity of the topic.⁶

Explaining Vietnam's behavior is important because of its implications for Southeast Asian regional order and stability, whether expressed in terms of Vietnam's bilateral relations with its neighbors, relations among the three Indochinese states, or interregional relations and arrangements generally. Further, the influence and intrusion

⁴ Richard K. Betts, "Vietnam's Strategic Predicament," *Survival*, Autumn 1995, vol.37, no.3, Autumn 1995, p.72.

⁵ Itu Aba is one kilometer long and 400 meters wide, and covered with trees and scrub.

⁶ Ian Townsend-Gault, " Preventive Diplomacy and Pro-activity in South China Sea," *Contemporary Southeast Asia*, August 1998, vol.20, no.2, p.171.

of extraregional actors, the strategic importance of connecting straits and shipping lanes through the South China Sea, and the marine resource potential of the region have long-term implications for global order.⁷

This thesis takes 1992 as the major starting point to cover on Vietnam and the Spratlys dispute because of several reasons. In 1992, Vietnam revised its foreign policy. Vietnam stopped being the “big brother” to Laos and Cambodia. Moreover, Moscow expressed a stronger commitment to Beijing than to Hanoi.

In February 1992, China promulgated its Territorial Sea Law as a warning to the other claimants that they should include China in the development of the area’s natural resources. China then signed a contract with Crestone Energy Corporation, an American company. By mid-1992, Vietnam’s offshore oil production surpassed China’s. Vietnam emerged as one of the major regional oil producer.⁸ In May 1992, Vietnam had entered into a contract with a Norwegian company, Nopec, to conduct a seismic survey in an area that overlaps with the concession China granted to Crestone.

1992 also marks the year when defense spending in Vietnam began to rise after a downward trend following the collapse of the Soviet Union in late 1991. Soviet military aid began drying up between 1989 and 1991. Vietnam gave priority to naval and air force modernization and purchased Type 1241 RA corvette (a Tarantul-class variant)

⁷ Epsey Cooke Farrel, *The Socialist Republic of Vietnam and the Law of the Sea. An Analysis of Vietnamese Behavior within the Emerging International Oceans Regime*, (The Hague: Martinus Nijhoff Publishers, 1998), p.2.

⁸ Bilson Kurus, “Understanding ASEAN: Benefits and Raison d’ Etre,” *Asian Survey*, vol.33, no.8, August 1993, p.837.

from Russia, Sukhoi Su – 27 FLANKER fighter aircraft, coastal patrol crafts, surface-to-surface missiles (SSMs), and other assorted electronic and communication gear.⁹

Vietnam joined the Association of Southeast Asian Nations (ASEAN) on July 28, 1995. Although there has been much progress in ASEAN-China talks, a lasting solution to the sovereignty disputes in the South China Sea has yet to be found. China is the key player based on political, economic, and military power. All concerned parties remained committed to a peaceful settlement of disputes, and ASEAN has expressed a wish to work closely with China in developing a regional code of conduct for the South China Sea.

Vietnam's other international disputes are maritime boundary with Cambodia which is not defined; unresolved maritime boundary with Thailand; and maritime boundary dispute with China in the Gulf of Tonkin and Paracel Islands¹⁰ occupied by China but claimed by Vietnam and Taiwan.¹¹

B. IMPORTANCE OF STUDY

The main focus of the thesis will be on Vietnam's position in the Spratly Islands dispute. The purpose is to uncover current and future Vietnamese policy and strategy towards the Spratly Islands dispute. I shall do this by examining the various phases of Vietnam's history with regards to the Spratly Islands dispute.

⁹ Carlyle A. Thayer, "Force Modernization: The Case of the Vietnam People's Army," *Contemporary Southeast Asia*, vol.19, no.1, June 1997, p.14.

¹⁰ Known as the Hoang Sa Islands to Vietnam and the Xisha Islands to China.

¹¹ CIA—*The World Factbook 1999—Vietnam*, available [Online] <http://www.adci.gov/cia/publications/factbook/vm.html> accessed on 18 January, 2000.

Two major issues will also be covered: (1) Vietnam's occupation of the Spratlys as a national security issue; and (2) actions that Vietnam has undertaken on Spratly Islands to bolster its claim under the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

C. AIM OF THESIS

This thesis will seek answers to these questions:

- (1) What is the existing problem of boundary disputes in the Spratly Islands between Vietnam and the other claimants?
- (2) What methods did Hanoi used and will use in the future to resolve the disputes?
- (3) What will Vietnam gain from the Spratlys dispute?
- (4) To what extent will Vietnamese diplomacy and military preparations are useful in preventing China's advances in the Spratly Islands and the South China Sea?

D. SCOPE OF STUDY

The questions about what Vietnam has done since 1992 in extending its occupation of the Spratly Islands and resolving the sovereignty disputes are of vital importance in explaining the rationale of its current policy and strategy on the Spratlys.

The time frame of the thesis is 1992 until the present.

E. STRUCTURE OF THESIS

This is an introductory chapter. The second chapter briefly summarizes competing claims of the Spratly Islands and the Vietnamese claim as well, examining the factors responsible for the disputes and their settlements. Factors taken into account are history, international law, UNCLOS, economics, and strategic importance. The third chapter discusses Vietnam's foreign policy, domestic policy, goals with regards to the Spratly Islands dispute since 1992, and the United States (U.S.) and Japan's interest in the Spratlys dispute. The fourth chapter examines Vietnamese strategy to end the Spratlys dispute, Vietnam – ASEAN relations, Vietnam – China relations, and its ocean policy under the 1982 UNCLOS or UNCLOS III. The fifth chapter will offer conclusions on Vietnam and the Spratly Islands dispute.

F. METHOD OF ANALYSIS

The sources used in this thesis research include:

- (1) Books, periodicals, and other library information concerning Vietnam and the Spratly Islands.
- (2) Interviews with officers at the Embassy of the Socialist Republic of Vietnam in the United States and Vietnam specialists.
- (3) Information obtained from the Embassy of Vietnam, Foreign Broadcast Information Service (FBIS – Vietnam) daily reports, and BBC Summary of World Broadcasts.

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II. HISTORICAL BACKGROUND

A. THE OVERLAPPING CLAIMS TO THE SPRATLY ISLANDS

The question of who owns the 400-odd rocks and islands that comprise the Spratlys was thoroughly ignored until the mid-1970s. (See Figure 2.) Factors that brought the issue forward for the countries involved were the rise of nationalist political pressures and the maintenance of political legitimacy.¹²

In the 1980s and 1990s, most of the disputing countries attempted to bolster their claims by occupying islands that can support a physical presence or by establishing markers where physical occupation is not possible. Some countries like China have gone so far as to set up markers on islets that are actually under water during high tide.¹³

As of 1996, the numbers of features occupied by each country were as follows: Vietnam occupies 35 islets or rocks, the Philippines 10, China 8, Malaysia 8, and Taiwan 1.¹⁴ Brunei occupies none.

The race to reinforce the validity of the various claims increased the likelihood of diplomatic discord and even resulted in three cases of military intimidation, the first of which led to outright-armed conflict between Vietnam and China in 1988.¹⁵

¹²“Oil-prospective Spratlys still a flashpoint,” p.36.

¹³ Ibid., p.36.

¹⁴ United States Pacific Command, Strategic Planning and Policy Directorate, Research and Analysis Division, *South China Sea Reference Book*, April 1996, pp.B1-B4.

¹⁵ “Oil-prospective Spratlys still a flashpoint,” p.36.

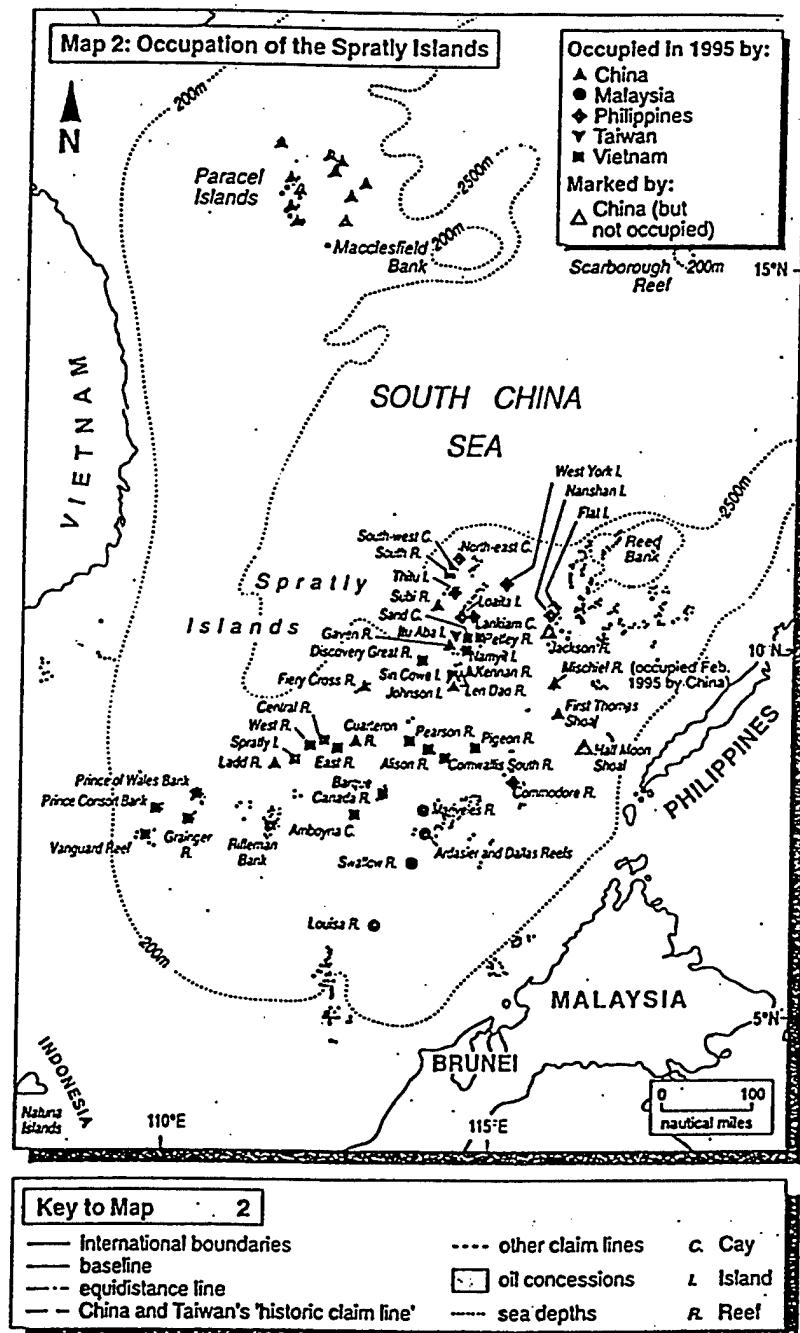


Figure 2: Occupation of the Spratly Islands

Source: Mark J. Valencia, *China and the South China Sea Disputes*, 1995, p.5.

The Spratlys dispute has its roots in the closing days of World War II when the Nationalist Chinese (Kuomintang) forces of Generalissimo Chiang Kai-Shek occupied the largest island in the group, Itu Aba (Taiping Dao in Chinese), which had been used by the Japanese as a submarine base. Taiwan has maintained a military garrison on the island since 1946. It claims all islands in the Spratly region. The islands are important to Taiwan not just for political and symbolic reasons but also because of its shipping lane that passes through the waters surrounding the Spratly Islands. The South China Sea in general, is abundant in fish. Therefore Taiwan feels compelled to protect its interest.

The Philippines was the next nation to stake a claim. In 1956, Philippine businessman Tomas Cloma claimed the islands under his own name.¹⁶ It was not until 1978 that Philippine President Ferdinand Marcos established an official claim, renaming all islands east of the Spratlys, the Kalayaan Islands. The Tagalog name for Freedomland. The Philippines claims approximately 60 islands in the Spratly region but not the Spratly Island itself.¹⁷

The South Vietnamese (the Republic of Vietnam) arrived on 22 August 1956, occupying Spratly Island proper, one of the seven islets, only to be relieved later by victorious troops from North Vietnam (the Democratic Republic of Vietnam) after Saigon fall on 30 April 1975. In the period of 1987 and 1992, Vietnam occupied some more islands, islets, reefs, cays, and some unnamed shoals.

¹⁶ Marwyn S. Samuels, *Contest for the South China Sea*, (New York: Methuen, 1982), pp.81-86.

¹⁷ Mark J. Valencia, Jon M. Van Dyke, and Noel A. Ludwig. *Sharing the Resources of the South China Sea*, (Honolulu: University of Hawai'i Press, 1997), p.33.

Malaysia first expressed interest in the islands in 1970 but made a claim only in 1979, stating that the islands were part of its continental shelf. It claims 3 islands and 4 rock groups in the Spratlys region.

For its part, Brunei has only asserted its claim but has done nothing to establish a physical presence in the islands. It claims the Louisa Reef, which is occupied by Malaysia, located in its notional 200 nautical miles exclusive economic zone (EEZ).

China entered the dispute in three phases. During the 1950s China laid claim to the Paracel Islands, to the north of the Spratlys, eventually seizing them by force from South Vietnam in 1974. Since then China has continued to up the stakes in a series of increasingly bold moves. The most spectacular of these moves took place on March 14, 1988, and was in response to the action of a contingent of Vietnamese soldiers who have hauled down a Chinese flag on a newly claimed shoal in the Spratly Islands. The Vietnamese and Chinese clashed at Johnson Reef resulting in the loss of one Vietnamese naval vessel, heavy damage to two others, and the deaths of 74 Vietnamese sailors. The immediate outcome of this action was that China took possession of six islands in the archipelago. Prior to that time China had been unsuccessful in establishing a physical presence in the Spratlys.

In 1992, however, China set in motion a series of events which have raised the stakes and level of tension once again. On February 25, 1992, to date her most sweeping move in the Spratlys, China passed a law on its Territorial Sea and Contiguous Zones. The law reasserted claims on the Spratly Islands, the Paracels, and the Pescadores, which

are located between China and Taiwan. This is an area encompassing virtually all of the South China Sea, which China went so far as to refer to as “inland waters.”

On May 8, 1992, the Chinese announced it had awarded an oil concession to Crestone Energy Corporation, an American company, to explore for oil in Vietnam’s continental shelf.¹⁸ China also occupied two reefs and deployed three conventional submarines to patrol the area which caused considerable consternation within ASEAN.¹⁹

China and Taiwan’s claim to most of the South China Sea on historical grounds is no way supported by modern international law or UNCLOS and is being increasingly criticized and even ridiculed.²⁰ The claims of China and Taiwan in a sense overlap each other.

In February 1995, there erupted encounters between the naval vessels of China and the Philippines at Mischief Reef. The Mischief Reef incident brought higher visibility to the dispute and catalyzed a united ASEAN reaction, to which China eventually responded in a conciliatory manner. The Table 1 represents who occupied which islands and names of the islands in five languages, after the 1995 Mischief Reef incident between China and the Philippines.

¹⁸ *New York Times*, 18 June 1992.

¹⁹ “Oil-prospective Spratlys still a flashpoint,” p.36.

²⁰ Barry Wain, “China’s Spratly Claim is all Wet,” *Asian Wall Street Journal*, 15 April 1994, p.6.

Table 1: Islands Occupation and Names of the Islands

English	Occupied by	Chinese	Vietnamese	Tagalog/Malay
Alison Reef	V	Liumen Jiao	Bai Toc Tan	
Amboyna Cay	V	Anbo Shazhao	Dao An Bang	Kalantiyaw/Pulau Kecil Amboyna
Ardasier Reef	M	Guangxingzi Jiao		Antonio Luna/Terumbu Ubi
Ardasier Reefs	M	Andu Tan/Xibo Jiao	Bai Kieu Ngua	Permatang Ubi
Barque Canada Reef	V	BaiJiao/Liwei Dao/Dazhushi	Da Ky Van	Mascado/Terumbu Perahu
Bombay Castle	V	Pengbo Bao		
Central Reef/London Reefs	V	Zhong Jiao	Truong Sa Dong	Gitna
Chigua Reef/Kennan Reef	C	Dongmen Jiao	Ken Nan	
Collins Reef/Johnson N. Reef	V	Guizhuan Jiao	Da Co Lin	
Commodore Reef/Shoals	P	Siling Jiao	Da Cong Do	Rizal Reef/Terumbu Laksamana
Cornwallis S. Reef/Shoal	V	Nanhua Jiao	Da Nui Le	
Cuarteron Reef/London Reefs	C	Huayang Jiao	Bai Chau Vien	
Dallas Reef	M	Guangxing Jiao	Da Da Lat	/Terumbu Laya
Discovery Great Reef	V	Daxian Jiao	Da Lon	
East London Reef	V	Dong Jiao	Can Dong, Da Dong	Silangang
Eldad Reef	V	Anda Jiao		
Fiery Cross Reef	C	Yonghu Jiao	Chu Thap	Kalingan
Flat Island	P	Feixin Dao/Antang Dao	Dao Binh Nguyen	Patag
Gaven Reefs	C	Nanxun Jiao	Da Ga Ven	
Grainger Bank	V	Lizhun Tan	Bai Que Duong	
Irving Reef	P	Hou'ai Jiao	Dao Ca Nham	Balagtas
Itu Aba Island	T	Tai Ping Dao	Dao Ba Binh	Ligaw
Johnson Reef South	C		Gac Ma	
Ladd Reef	V	Riji Jiao	Da Lat	
Landsdowne Reef	V	Quyuan Jiao		
Lankiam Cay	P	Yangxin Shazhou		Panata
Len Dao	V	Qiong Jiao		
Loaita Island/South Island	P	Nanyue Dao	Dao Loai Ta	Dagahoy Dugao
Loaita Nan	P	Shuanghuang Shajiao		
Louisa Reef	M	Nantong Jiao		/Terumbu Semerang Barat Kecil
Mariveles Reef	M	Nan Hai Jiao	Das Ky Vien	/Terumbu Montanani
Mischief Reef	C	Meiji Jiao	Da Vanh Khan	Panganiban
Namyit Island	V	Hongxiu Dao	Nam Yit	Binago/Ilot Nam Yit
Nanshan Island	P	Mahuan Dao	Dao Vinh Vien	Lawak
North Danger Reef	C	Shuangzi Jiao		
Northeast Cay	P	Beizi Dao	Dao Song Tu Dong	Parola
Pearson Reef	V	Bisheng Jiao	Hon Sip	Hizon
Petyl Reef	V	Bolan Jiao	Do Thi	
Pigeon Reef/Tennent Reef	V	Wumie Jiao	Da Thien Nu	
Prince Consort Bank	V	Xiwei Tan	Bai Phuc Nguyen	
Prince of Wales	V	Guangya Tan	Bai Huyen Tran	
Reed Tablemount/Bank	V	Liyue Tan		
Royal Charlotte Reef	M	Huang Lu Jiao	Da Sac Lot	/Terumbu Samarang Barat Besar
Sand Cay	V	Dunqian Shazhou	Da Son Ca	
Sin Cowe East Island	V		Sinh Ton Don	
Sin Cowe Island	V	Jing Hong Dao	Dao Sinh Ton/Gac Ma	Rurok
South Reef	V	Nailuo Jiao	Da Nam	
Southwest Cay	V	Nanzi Dao	Da Song Tu Tai	Pugad
Spratly Island	V	Nanwei Dao	Dao Truong Sa	Lagos
Subi Reef	C	Zhubi Jiao	Da Su Bi	
Swallow Reef	M	Dan Wan Jiao	Da Hoa Lau	/Terumbu Layang-Layang
Thitu Island	P	Zhongye Dao	Dao Thi Tu	Pagasa
Vanguard Bank	V	Wanan Tan	Bai Tu Chinh	
West Reef	V	Xi Jiao	Con Tay	
West York Island	P	Xiyue Dao	Ben Loc	Likas
Catwick Island	V			
Little Catwick	V			
Grand Catwick	V		Hon Da Ty	
	V		Cu Lao Thu	

Notes: Many islands or reefs have more than one name in some languages. The above table offers only one name in each language. The letters in the second column indicate which country has occupied the named island. C=China; T=Taiwan; V=Vietnam; P=the Philippines; and M=Malaysia.

Source: Greg Austin, *China's Ocean Frontier, International Law, Military Force, and National Development*. 1998, pp.380-381.

B. THE VIETNAMESE CLAIM

According to Vietnam, it holds the oldest, most direct claim to the islands. Court documents during the reign of King Le Thanh Tong (1460-1497) indicate that both the Spratly and Paracel archipelagoes were considered to be Vietnamese territory. Vietnam's claim to the Paracels was confirmed by others in the 1630s when the Journal of Batavia reported that the Vietnamese had sovereignty over the Paracels and that Dutch merchant boats that ran aground were assisted by the Vietnamese. Documentation of Vietnam's claims is frequent throughout the seventeenth century and Vietnamese maps from that era show both groups of islands as part of Vietnamese territory and place them under the administration of the Binh Son district of Quang Nghia prefecture.²¹

In the eighteenth century, the Annamite Empire that governed Vietnam sponsored two sea-going companies to recover goods from shipwrecks in the islands. It is assumed that each company targeted one of the archipelagos, thus establishing an Annamite claim to both the Paracels and Spratlys. The Empire erected a stele (engraved pillar) and a temple on the islands, and planted trees to mark the islands for navigators. An eighteenth century Annamite map included the islands within the territory of Annam.

²¹ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.30.

Various items of evidence such as maps and administrative records support the view that Vietnam asserted sovereignty over the Spratlys in the nineteenth century. The Spratlys, along with the Paracels, had been mapped as part of its territory and called them Truong Sa and Hount Sa respectively. Under Emperor Gia Long, a research team was established in 1815 to explore the economic potential of the Spratlys.²² This research was then continued in the years of 1833, 1835, and 1836.

In 1884, the French established a protectorate over Vietnam and began to assert a claim to the Paracel and Spratly Islands. The French, who colonized Annam, preempted the Annamite's claims to the islands and maintained a tenuous vigilance over the archipelagos throughout the protectorate. Under French rule, Vietnam dispatched naval vessels and explored for phosphates. France asserted physical control over nine of the Spratly islets between 1933 and 1939, and published a formal notice of annexation in its own Official Journal on July 26, 1933. Vietnam argued that the Spratlys were placed under Vietnam when it was a colony of France. Nevertheless, France has on one occasion stated that it had not placed the Spratlys within Vietnamese territory.²³ It was just before the Second World War that Japan occupied the Spratlys and the Paracels. However, Vietnam's independence on September 2, 1945 and the subsequent turmoil of

²² Ministry of Foreign Affairs, Socialist Republic of Vietnam, *The Huong Sa and Truong Sa Archipelagoes and International Law*, Hanoi, April 1988, pp.4-5.

²³ Jose C. Balein, "The Spratlys – Next Irritant In Our Foreign Policy," *Examiner*, March-April 1977, p.44.

its civil war allowed the historical claims to the islands to lapse until Vietnam's post-war reunification in 1975.²⁴

Vietnam maintains that following the end of the Second World War, its sovereignty over the Spratlys was restored. Referring to the statement released by the Vietnamese delegation in the 1951 Peace Conference on the eve of San Francisco Treaty and followed by the 1954 Geneva Conference, which accepted the Spratlys and the Paracels as part of South Vietnam, the Vietnamese contend they have legitimacy of jurisdiction over the Spratlys.²⁵ Vietnam continued to assert its sovereignty at other international level meeting like in the World Meteorological Organization.

The Vietnamese Foreign Ministry claimed in January 1994 that the Spratlys and the Paracels come under Vietnamese sovereignty because Vietnam was the first to discover them in the seventh century and has been exercising its genuine ownership over them in a continuous and peaceful manner.²⁶ Vietnam argues that the other parties' claims either to the Spratlys or the Paracels cannot be legally justified. Referring to China, it argues that no proof exists that only Chinese people had sailed to and from the Spratlys and the Paracels. According to Vietnam, the Vietnamese, the Malays, the Indonesians, and the Arabs had sailed to these archipelagos long before the Chinese.²⁷

²⁴ Monique Chemillier-Gendreau, "La Souverainete sur les Archipels Paracels et Spratleys," Translation available [Online] <http://www.paracels.com/monique-c-gendreau.htm> accessed on 22 March 2000.

²⁵ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.34.

²⁶ "Vietnam: Foreign Ministry Reasserts Sovereignty Over Spratlys," *Reuters Newstext*, 24 January 1994.

²⁷ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.35.

Evaluating the Chinese claim, therefore, the Vietnamese are of the opinion that the Chinese military action which had taken over the whole Paracels in 1974, as well as the Chinese attack against Vietnamese troops in some of the Spratlys in March 1988, were simply motivated by contemporary Chinese expansionist and hegemonic policy.²⁸ Even after the Chinese invasion of the Paracels in 1974, Vietnam did not relinquish its claims to either of the island group.

The pre-unification communist regime in North Vietnam publicly supported the claims of Communist China in the South China Sea from 1954 to 1975. It was only after the unification of North and South Vietnam that Vietnam became vocal about its own claims in the South China Sea. It came out with historical texts, archaeological findings and legal interpretations to augment its claims. It is, therefore, understandable that social scientists question the legitimacy of these claims.²⁹

In recent years, Vietnam has reasserted its claims not only against China but also against the new claims in the Spratlys made by Malaysia, the Philippines, and Brunei. A 1992 report stated that Vietnamese personnel levels increased to around 1000 soldiers or sailors and some construction workers on 21 islands or atolls. The main garrison on Sin Cowe Island is fortified with heavy coastal artillery and anti-aircraft guns. Spratly Island has a small airstrip. In 1989, three reefs within the block that China leased to the Crestone Energy Corporation – Vanguard Bank (Bai Tu Chinh), Prince Consort Bank (Bai Phuc Nguyen), and Grainger Bank (Bai Que Duong) – were occupied by Vietnam.

²⁸ Ibid., p.35.

²⁹ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.37.

However, this occupation required constructing artificial structures because the islands are naturally covered by at least 11 meters of water.

In July 1994, Vietnam delivered two “economic-technological service stations” to the Vanguard Bank reefs. Previously in May 1992, Vietnam had entered into a contract with a Norwegian company, Nopec, to conduct a seismic survey in an area that overlaps with the concession China granted to Crestone. Then in 1994 it hired VietSovpetro to drill for oil in the Crestone concession area.

Vietnam continues to maintain precarious garrisons on up to 22 islands in the Spratlys, supporting a claim to “effective occupation” of part of the Spratly archipelago since 1973. Nine of these Vietnamese-occupied islands are naturally exposed at high tide- Spratly Island, West London Reef, Amboyna Cay, Pearson Reef, Sin Cowe Island, Namyit Island, Sand Cay, Barque Canada Reef, and Southwest Cay. In 1998, Vietnam has maintained garrisons of some 350 troops on at least five of these islets, that is Spratly, Amboyna Cay, Sin Cowe, Namyit, and Southwest Cay.

The current position of Vietnam is that the Spratly islets do not constitute EEZs and continental shelves, and that any zones around these islands should be limited to territorial seas. Vietnam stresses that each country should be entitled to a full 200 nautical miles EEZ generated from its main coastal or large-island land areas, and that the International Seabed Authority should govern the high seas area beyond 200 nautical miles.

Vietnam also claims a continental shelf beyond 200 nautical miles extending southeast from its coast. Article 76 of the Law of the Sea Convention allows nations to

claim the resources of such naturally extending shelves out to a maximum distance of 350 nautical miles. Recent surveys, based on depth contours, supported the assertion that they belong to the Vietnamese continental shelf.³⁰

In 1982, Vietnam claimed straight baselines along its coasts, some of which are inconsistent with the requirements of the 1982 UNCLOS Convention. Vietnam has been reassessing these baseline claims and is expected to issue new baselines as well as an exclusive economic zone claim that will conform more closely to the criteria of the Law of the Sea Convention.

By relying on visits and administration over them “from time immemorial”, Vietnam’s claim to the Spratly Islands is mostly historical. However, lately, Vietnam supports its claim by applying international law and the 1982 UNCLOS. Vietnam argues that the principle of first discovery advanced by China cannot be accepted. They believe this principle should be accompanied by the principle of “effective occupation.” In this context, Vietnam insists that it has fulfilled international law conditions as the Spratlys have been effectively administered by it since the eighteenth century. Vietnam also provides its own historical records in a similar fashion to China to justify its claims.³¹

³⁰ “*Paracels Forum*,” available [Online] <http://www.paracels.com/forum%20opening.htm> accessed on 18 April 2000.

³¹ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.34.

Choon Ho Park made an interesting observation that,

Both China and Vietnam rely on foreign literature and cartography. However, strictly speaking, the evidentiary value of such foreign references must be considered at best doubtful, for the obvious reason that such materials cannot reach beyond information from the countries to which they refer.³²

C. FACTORS RESPONSIBLE FOR THE DISPUTE

What motivates the various claimants to compete with each other over the Spratlys is not difficult to understand. The known and potential natural resources of the ocean and of the seabed and the strategic location of the islands are so alluring that none of the claimants is willing to remain far behind in staking and pursuing a claim. As far as economic potential is concerned, every claimant is desirous to exploit the resources, and unilaterally if possible. They are all trying to enter into agreements with the developed countries that have the technology to explore oil and natural gas in the area.³³

Deposits of oil and gas are reputed to lie below the sea bed around the islands. The sea is certainly rich in fish but the main value of the Spratlys is strategic. They command important shipping lanes through the South China Sea. For China, the Spratlys guard the southern flank of a possible invasion route to Taiwan. It is the most assertive of the claimants.³⁴

³² Choon Ho Park, "The South China Sea Disputes: Who owns the Islands and the National Resources?", *Ocean Development and International Law: The Journal of Marine Affairs*, Vol.5, 1978, pp.33-34.

³³ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.216.

³⁴ "Asia: Calming the Sea of Troubles," *The Economist*, 6 November 1999, p.46.

Since the middle of 1970's the Spratly Islands have assumed greater importance for the claimants. The Chinese Department of Geology and Mineral Resources has estimated that the South China Sea may contain as much as 17.7 billion tons of oil, which if true, would make its reserves larger than those of Kuwait. Thus, oil claims lie at the heart of the South China Sea dispute. Although the amount of oil in the sea is unknown, the possibility of large pockets of valuable resources has made the infighting particularly bitter, with China normally alone and against the other contenders.

As a result of the economic and security interests among the countries concerned, each of the claimants to the ownership of the islands has gradually enhanced its military presence on the territory it claims as its own. Based on the actions taken by the claimants, none of them is ready to compromise its position in order to settle the territorial dispute.

Although unproven with regard to hydrocarbon potential, the Spratlys are thought by many analysts to contain significant potential for commercial reserves of natural gas and oil. Just how much is in the Spratly Islands region has yet to be determined. Both Chinese and foreign operators have discovered a number of large oil and gas fields in South China Sea waters closer to the mainland but still theoretically on trend with prospects in the Spratlys, notably near China and Vietnam.³⁵

While not demeaning the importance of potential oil deposits as both incentive and catalyst, exploration for buried treasure or other seabed resources would likely have much the same consequences since the core issue is sovereignty, not oil. If it were

³⁵ "Oil-prospective Spratlys still a flashpoint," p.36.

positively determined tomorrow that there was no exploitable oil in the Spratlys, the dispute would not go away.³⁶

On the other hand, discovery of major oil deposits would increase the incentive for claimants to more zealously guard and enforce their respective claims. More dangerously, it might increase the willingness of some parties to risk triggering conflict by attempting unilaterally to drill for or extract oil in disputed territories.³⁷

1. Choke-point for Vietnam

Vietnam's interests in the Spratlys are both strategic and economic. There is no doubt the islands' worth is crucial for Vietnam's economic future and its plans for self-reliance in oil.³⁸

Apart from its endeavor to exploit sea resources, its geographical location and its traditional fears of China have shaped Vietnam's interests in the Spratlys. Before 1975, North Vietnam was almost a land-locked state. Close to China's Hainan Island from its creation in 1954 and then further encircled by the Paracels when occupied by China in

³⁶ Ralph A. Cossa, "Security Implications of Conflict in the South China Sea: Exploring Potential Triggers of Conflict," available [Online] <http://www.csis.org/pacfor/pac1698.html> accessed on 18 April 2000.

³⁷ Ibid.

³⁸ D.R. SarDesai, *Vietnam: The Struggle for National Identity*, (Boulder: Westview Press, 1992), p.128

1974, Hanoi's access to the high seas was very limited and almost dependent on China's policy.³⁹ (See Figure 3 for a detailed map of Vietnam.)

Since Hanoi-Beijing relations have been to a large extent historically governed by a mutual antipathy, despite strong Chinese support for the Vietnamese Communists from 1950 until the early 1970s, it is not surprising that the South China Sea and the islands lying in this body of water have become an area of conflict between the two countries.⁴⁰

What Hanoi needs was peace and stability so that its liberalizing policy of economic renovation, *doi moi*, may be realized to replace its previous economic strategy based on membership and subsidies from the Soviet bloc, a bloc that no longer exists. At that time Vietnam did not intend to upgrade its navy. It has merely improved its garrison on some islands, including burying tanks into the ground as gun emplacements.⁴¹

Hanoi, like any other state, has been quite prepared to use force in pursuit of its interests when the correlation of forces are in its favor, as occurred in the war against the South Vietnam and its occupation of Cambodia.. Its accommodating attitude towards the Spratlys is genuine enough but springs not from a newfound pacifism but from the dictates of weakness.⁴²

³⁹ Lim Joo Jock, *Geo-Strategy and the South China Sea Basin: Regional Balance, Maritime Issue, and Future Patterns*, (Singapore: Institute of Southeast Asian Studies, 1979), pp.12-13.

⁴⁰ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.93.

⁴¹ Tai Ming Cheung, "Fangs of the Dragon, Peking's naval build up sparks ASEAN reaction," *Far Eastern Economic Review*, 13 August 1992, p.20.

⁴² Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.98.



Figure 3: The Socialist Republic of Vietnam

Source: Glenn R. Walker, Jr. *The Evolution of Civil-Military Relations in Vietnam*, June 1994, p.80.

D. DISPUTE SETTLEMENTS OFFERED BY ASEAN AND THE UNITED NATIONS

China and ASEAN have agreed to frame a common code of conduct for disputed territorial claims in the South China Sea. Both sides have previously issued separate draft codes of conduct designed to ease tensions in the South China Sea, including the Spratly Islands.⁴³ Under a code of conduct China previously proposed to ASEAN, Beijing wants military exercises and patrols banned in disputed areas of the South China Sea. ASEAN has proposed a separate draft code of conduct saying claimants should refrain from occupying new areas or building new structures in the Spratlys. The Filipinos, which drafted much of the proposed ASEAN code, has been trying to align ASEAN members in a common stance against what it sees as Chinese expansionism. The proposed code would cover four broad areas: how to handle disputes in the South China Sea, how to build trust and confidence, cooperation on marine issues and environmental protection and modes of consultation.⁴⁴

Issues pertaining to the territorial control of the seas have long been the subject of international law. To resolve disputes and regulate issues, the United Nations (UN) drafted the Law of the Sea Convention (UNCLOS). It is aimed at establishing coastal boundaries, erecting an International Seabed Authority to regulate seabed exploration not within territorial claims, and to distribute revenue from regulated exploration. All of the claimant countries subscribe to UNCLOS. Vietnam ratified it in July 1994, the

⁴³ "Asia: Calming the Sea of Troubles," *The Economist*, 6 November 1999, p.47.

⁴⁴ "China, ASEAN Agree on Spratlys," available [Online] <http://lateline.muzi.net/cgi/lateline/news.cgi?p=62552&l=english> accessed on 10 April 2000.

Philippines in November 1994, China in July 1996⁴⁵, Brunei in October 1996, and Malaysia in November 1996.

Article 56 of the treaty outlines parameters for the establishment of a country's EEZ, which extends 200 nautical miles from the country's coastline. The UNCLOS further excludes rocks incapable of sustaining human habitation. The third important part of the UNCLOS is Part VI, which justifies claims by Brunei, Malaysia and the Philippines. Justification is based on proximity, not history. Hence, China, Taiwan and even Vietnam's historical claims would not likely win arbitrated cases.

Besides UNCLOS, the International Court of Justice could also serve as a conduit to resolve the Spratly-related territorial disputes. But in order for the World Court to hear a case, all disputants must be willing to permit the Court to hear the case and render a binding decision. The World Court cannot adjudicate if the claimants do not accept its jurisdiction.

According to Richard E. Hull of the United States Institute of National Strategic Studies, the documentary background of the various claims in the Spratlys is quite vague, and the historical records quite contradictory. None of the countries involved including Vietnam offers completely convincing historical or legal claims. Setting the stage for the current contest to justify titles, the International Court of Justice has designated "effective occupation" as a primary consideration in the evaluation of claims.⁴⁶

⁴⁵ *The Straits Times*, 17 May 1996.

⁴⁶ "Oil-prospective Spratlys still a flashpoint," p.37.

However, the dispute over the Spratly Islands continues, as the validity of historical claims which would take precedence over the dictates of UNCLOS have yet to be decided. Despite its potential for conflict, Southeast Asia now has an opportunity to build lasting peace for the first time in a generation. In partial response to the post-Cold War climate, ASEAN has begun to consider security cooperation. Vietnam, isolated and vulnerable, has embraced ASEAN. The Cold War gone, the ebbing of the Cambodian conflict and the ever-closer relationship between Vietnam and China have set the stage for a positive regional security relationship.

From the events happening among the conflicting claimants, it can be seen that historical mistrust, enduring territorial disputes, competing maritime claims and increasing military spending combine to weaken the prospects for success of regional multilateral security structures. However, there are other resolved cases of island territorial disputes like the Falklands, Timor, Spitzbergen (Svalbard), and Antarctica disputes that could probably be applied in the Spratlys dispute.⁴⁷

⁴⁷ Adolf P. Borje, *The Spratly Islands: A Brewing Flashpoint in Asia*, (Monterey: Naval Postgraduate School, June 1994), p.6.

III. THE VIETNAMESE FOREIGN POLICY EVOLUTION SINCE 1992 AND POLICY ON THE SPRATLAYS DISPUTE

A. INTRODUCTION

After 50 years of war, Vietnam saw with poignant sadness how far it had been left behind by its ASEAN neighbors in the quest for a better life for its citizens.⁴⁸ Even now in the new millennium, as also when Vietnam entered the 1990s, it was caught between its new concern with finding a niche within the global capitalist system and its old fears that the American and other advanced capitalist states were striving for the collapse of its Communist regime.⁴⁹

For Vietnam, the year 2000 is of great significance, and a good reason for Vietnam to improve its relations with other countries especially the Spratlys claimants, because it is a year of major celebrations such as the 55th Independence Day, the 990th commemoration of the foundation of Hanoi, and the 25th anniversary of the end of the U.S. war in Vietnam.

B. VIETNAM'S FOREIGN POLICY

Beginning in 1992, Vietnam had to adjust to new situations and revise its foreign policy. Vietnam retreated from Laos in late 1988 and Cambodia in 1989 and stopped being a “big brother” to them. Although Vietnam is one of the two major powers in

⁴⁸ Chia Siow Yue and Marcello Pacini, *ASEAN in the New Asia: Issues & Trends*, (Singapore: Stamford Press Pte Ltd, 1997), p.132.

⁴⁹ Gareth Porter, *Vietnam, the Politics of Bureaucratic Socialism*, (New York: Cornell University Press, 1993), p.215.

Indochina, it is just a medium power in Southeast Asia and a minor one in East Asia.⁵⁰ It has begun rapprochement with China. Vietnam could no longer ignore the centrality of its relationship with China and its foreign policy. Vietnam is not only persistently wooing ASEAN but also other international organizations like the Asia-Pacific Economic Cooperation Forum (APEC), Non-Aligned Movement (NAM), Asian-European Cooperation Forum (ASEM), and the UN.

Vietnam has long realized that it needs to join the world for survival of its state and the Vietnamese Communist Party (VCP). This is a promising shift in Vietnam's foreign policy, one that holds the hope that it will finally be accepted into the international community.⁵¹ Vietnam now has diplomatic and trade relations with more than 160 countries.⁵²

By 1992, Vietnam had readjusted its foreign policy so decisively that ideological factors seemed to play little or no role in the considerations of the Foreign Ministry and the Political Bureau (Politburo) in Hanoi. In large part, Vietnam has been forced to make these adjustments as what Hanoi often called "the foundation stones" of Vietnamese foreign policy – the intimate alliance with the Soviet Union and the "special relationship" between the three countries of Indochina – collapsed around it.

⁵⁰ Richard K. Betts, "Vietnam's Strategic Predicament." *Survival*, Autumn 1995, vol.37, no.3, p.65

⁵¹ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.63.

⁵² Available [Online] <http://www.vietnamembassy-usa.org/welcomin.htm> accessed on 13 November 1999.

The path was clear for a rapid improvement in relationships with the outside world, particularly with ASEAN and China.⁵³ Vietnam will need to woo the international community for development assistance to develop the infrastructure of a market economy. In late 1993, Washington lifted its ban on international lending to Vietnam and now permits American companies to bid infrastructure projects financed by the World Bank, International Monetary Fund (IMF), and the Asian Development Bank.⁵⁴ On February 3 1994, President Bill Clinton announced the lifting of the American trade embargo against Vietnam. Consequently many American companies invest and trade in Vietnam.

The people in Hanoi realized the importance of improving relations with the U.S. Previously, it was the key to gaining access to international aid. Presently, it is the key to join the World Trade Organization (WTO) and expanding trade. Vietnam shall continue to court the U.S. for supporting its application into the WTO, obtaining the most-favored-nation status and for increasing U.S.-Vietnamese trade.⁵⁵ Vietnam remains the only country with which the U.S. established full diplomatic ties, without normalizing trade relations.⁵⁶

⁵³ Michael C. Williams, *Vietnam at the Crossroads*, (New York: Council on Foreign Relations Press, 1992), p.60.

⁵⁴ Murray Hiebert, "Lukewarm Welcome," *Far Eastern Economic Review*, 17 February 1994.

⁵⁵ Stephen G. Rady III, *Reinventing Vietnam: Doi Moi As A New Revolution?*, (Monterey: Naval Postgraduate School, June 1999), p.133.

⁵⁶ Emma Batha, "Vietnam: A new Asian Tiger?," available [Online] http://news2.thls.bbc.co.uk/hi/english/world/asia-pacific/newsid_719000/719258.stm accessed on 7 May 2000.

Vietnam's foreign policy after the Cold War is based on the comprehensive security concept. We will find out that foreign policy is an important tool to ensure peace and security for the country as well as contributing to regional peace and security. In doing so, both external and domestic developments will be taken into consideration.⁵⁷

1. New Orientations in Vietnam's Foreign Policy

With its strategic position in Southeast Asia and its economic as well as human resource potentials, Vietnam had always occupied a high place on the agenda of the big powers' policy during the Cold War. Its struggle for national independence and unity had been complicated by the involvement of those big powers. It could have been the reason why Vietnamese people are very sensitive to security issues especially when it concerns independence, sovereignty and territorial integrity. This sensitivity, however, might lead to overemphasizing of military security as seen during the period of late 1970s to mid 1980s, beginning with the post-Vietnam War until the 1988 clash with China.

The *doi moi* reform marked a turning point in the development of Vietnam. Changes after that were comprehensive and far-reaching. In foreign policy, important changes occurred when Vietnam withdrew all its troops from Cambodia in 1989. This bold decision stemmed from a new concept of security, which ranked economic security equal to military security. The decision to withdraw troops from Cambodia and actively contribute to a peaceful resolution to the Cambodian conflict and the adoption of a

⁵⁷ Available [Online]
<http://www.freerepublic.com/forum/a36b063d1050c.htm%20> accessed on 1 April 2000.

foreign investment law were considered to be breakthroughs in Vietnam foreign and domestic policy. From then on, Vietnam has been steadily moving toward deeper regional and global integration. This trend was reflected by mottos put forward in successive VCP Congresses: “more friends, fewer enemy” (1986); “befriend all” (1991); and “strive for regional as well as global integration” (1996). This new orientation in foreign policy, based on a broader concept of security, has led to significant achievements in Vietnam’s diplomacy: becoming a full member of ASEAN in July 1995; normalizing diplomatic relations with the U.S. in July 1995; and signing the Framework Agreement with the European Union also in 1995.

2. The International Context

As the most dynamic region in terms of growth, trade and investment, the Asia-Pacific has played an increasing role in world affairs. The success story of East Asian countries has created a stronger sense of self-confidence and belief in an Asian way of development and improved stability. Instability, however, still remains in the Korean peninsula, the Taiwan Strait and South China Sea. These are considered flashpoints in the Asia-Pacific region where conflict may occur.⁵⁸ Without a strong security framework as in Europe, stable relationships among big powers in the region will be important into solving potential conflict in the region.

The time for big powers to handle international affairs at the expense of other countries is over. The new international environment, still emerging, reserves broad room for small and medium nations to act through several regional security mechanisms.

The ASEAN Regional Forum (ARF)⁵⁹ and the Council for Security Cooperation in the Asia-Pacific (CSCAP)⁶⁰ are two important cases in point. These mechanisms have significantly enhanced the role of ASEAN as dialogue partner of the major powers and will certainly play a more important role in ensuring peace and stability in the Asia-Pacific region.

In contemporary Southeast Asian history, no country has been exposed to major power involvement more than Vietnam. For better or worse, this experience has given the country important lessons, the most crucial one being that good or at least normal relations with all of them are vital for Vietnam's peace and security environment. This, however, was not attainable under the logic of the Cold War. The greatest benefit of the ending of the Cold War for Vietnam was that it opened a new beginning in which Vietnam can have good relations with all major powers. The 1986 *doi moi* reform has testified to the fact that in restoring and developing relations with the major powers, Vietnam was able to improve relations with the rest of the world. Furthermore, it would facilitate Vietnam's participation in the process of globalization.

⁵⁸ Daniel Griffiths, "China wary of U.S. influence," available [Online] <http://news2.thls.bbc.co.uk/hi/english/world/asia-pacific/newsid%5F677000/677724.stm> accessed on 7 May 2000.

⁵⁹ ARF is a mechanism of dialogue formed by ASEAN in 1994. The aims of ARF is to promote confidence-building, preventive diplomacy and conflict resolution in the region.

⁶⁰ An association of non-governmental institutions and think-tanks, preparing the way for inter-governmental institutions.

Strengthening relations with neighboring countries is also a priority in Vietnam's foreign policy. During the Cold War, due to great power involvement in the region, Vietnam's relations with its neighbor countries were seriously affected. Misunderstanding, suspicion and distrust between Vietnam and its ASEAN neighbors had further damaged bilateral relations. It is unrealistic to think that this legacy of the past can be solved once and for all overnight. However, Vietnam joining ASEAN has considerably contributed not only to the improvement of Vietnam's security environment but to the enhancement of ASEAN's position in the Asia-Pacific region as well.

3. The Domestic Context

Vietnamese foreign policy has been strongly influenced by domestic socioeconomic and political needs. The failure of the orthodox Marxist-Leninist development model and its attendant socioeconomic crisis forced Vietnam to begin to seek greater participation in the global capitalist system in the 1980s as seen in the 1986 *doi moi* program.⁶¹

The basis of Vietnam's defense-security is political stability and economic development. Those factors helped Vietnam gained the reputation as one of the most stable countries in the region in the recent years. This in turn, is a favorable condition for domestic economic growth as well as an attraction for foreign investment and a starting point for the process of global and regional integration of Vietnam. In other words, Vietnam's security starts from the inside.

⁶¹ Porter, *Vietnam, the Politics of Bureaucratic Socialism*, p.188.

Vietnam's security and interests are closely linked with those of its neighbors, of the region and of the world. Vietnam should not separate itself from this common trend but on the contrary must make full use of this trend for its development. That is why to ensure the national security, apart from the internal factor of enhancing domestic political and social stability, the external factor of improving cooperative relations with countries inside and outside the region is also very important. As a result of domestic economic imperatives, the main goal of Vietnam's foreign policy is to help facilitate the process of national industrialization and modernization.

4. Vietnam's Economic Objectives in the Spratlys

There is a reason why Vietnam places much emphasis on the exploitation of its oil resources. The oil and gas deposits of Vietnam seem to be a promising new frontier economically. A study by the Resource Systems Institute of the East-West Center in Hawaii has estimated that Vietnam has oil reserves of 1 – 2.5 billion barrels, which put Vietnam in the same rank as Australia and Brunei.⁶² (See Table 2.)

⁶² Carol Goldstein, "Bottom of the barrel" and "Vietnam's oil promise," *Far Eastern Economic Review*, 6 December 1990, p.49, p.51.

Table 2: Oil and Gas in the South China Sea Region

	Proven Oil Reserves (Billion Barrels)	Proven Gas Reserves (Trillion Cubic Feet)	Oil Production (Barrels/Day)	Gas Production (Billion Cubic Feet)
Brunei	1.35	14.1	145,000	340
Cambodia	0	0	0	0
China*	1 (est.)	3.5	290,000	141
Indonesia*	0.2	29.7	46,000	0
Malaysia	3.9	79.8	645,000	1,300
Philippines	0.2	2.7	<1,000	0
Singapore	0	0	0	0
Taiwan	<0.01	2.7	<1,000	30
Thailand	0.3	7.0	59,000	482
Vietnam	0.6	6.0	180,000	30
Total	7.5 (est.)	145.5	1,367,000	2323

*Only the regions near the South China Sea are included. Proved reserves as of 1/1/98; 1997 production (except Indonesia, where data is as of 1996).

Note: There are no proved reserves for the Spratly and Paracel Islands

Source: Available [Online] <http://www.paracels.com/energy.htm#FIG1> accessed on 2 April 2000.

The exploration of oil and gas were indeed given emphasis particularly when the economic liberalization reforms began to produce higher economic growth rates after 1988. After mid-1988 Vietnam signed eleven production sharing contracts with various foreign oil companies such as Shell, Total, BHP, Enterprise Oil, The Oil and Natural Gas Commission of India, Petro Canada, Petrofina of Belgium, Petronas of Malaysia, Sceptre Resources of Canada, and a consortium led by SECAB of Sweden, and International Petroleum Ltd. of Canada.⁶³ If Vietnam was previously known as an oil-importing country, since 1988 it has been an oil producing capable of fulfilling all it needs.⁶⁴ In the

⁶³ Murray Hiebert, "Second time lucky? Foreign oil firms bullish about Vietnam's prospects," *Far Eastern Economic Review*, 7 May 1992, p.65.

⁶⁴ Manoj Joshi, "Geopolitical and Economic Realities," Paper presented at the Seminar on Indian Ocean in New Delhi, December 1992, p.6.

1980s, Vietnam issued its petroleum concession block map, which covers almost the entire south central South China Sea.⁶⁵ (See Figure 4.)

Regarding the exploitation of living resources in the South China Sea, Vietnam is lagging behind compared to other claimants.⁶⁶ Vietnam is increasing its interests in the expansion of fisheries. It is hard to obtain empirical data about how and in what way Vietnam will improve its capacity to exploit the fishery resources of the South China Sea. Nevertheless, the logic of its position suggests it will, since Vietnam possesses a distinctive location in the South China Sea. Its entire coastline is adjacent to it and no other claimants have such a strong yet vulnerable strategic position. In fact, it is very much dependent on the sea route in the South China Sea. Vietnam is afraid that if others seized the entire Spratlys, its territorial security would be jeopardized and its economic interests damaged.⁶⁷

⁶⁵ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.12

⁶⁶ FAO Year Book, n.29.

⁶⁷ Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p.57.

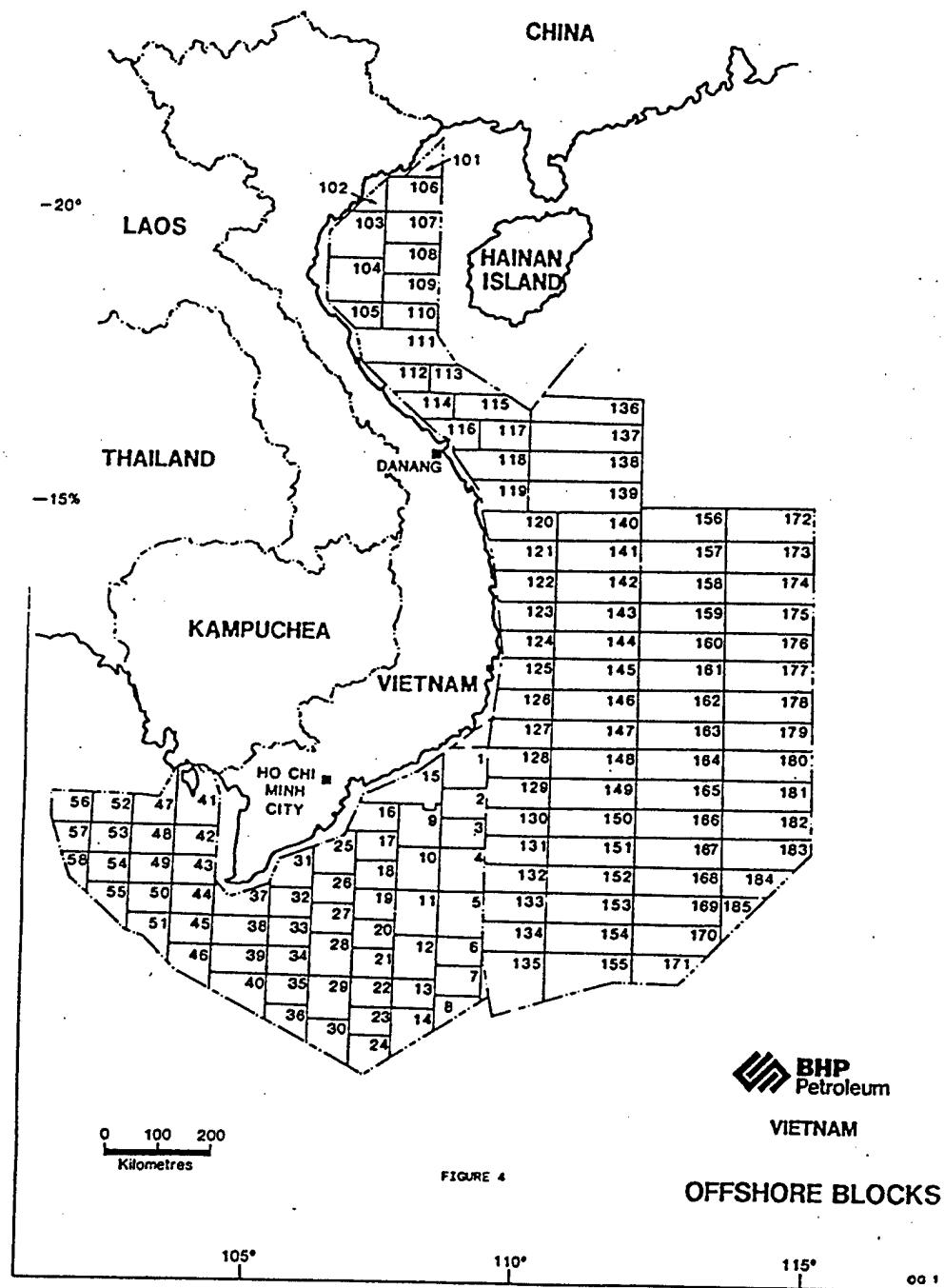


Figure 4: Vietnam Petroleum Concession Block Map, Western South China Sea
 Source: Mark J. Valencia, Jon M. Van Dyke, and Noel A. Ludwig. *Sharing the Resources of the South China Sea*, 1997, p.12.

The end of communism in Eastern Europe and the Soviet Union, and the abrupt termination of the Socialist Commonwealth, finally gave a wake-up call to the leadership in Hanoi. A fact that it had long sought to avoid - that it could no longer afford to escape a choice between its security needs and its economic needs. The future of continued party rule in Vietnam was inextricably entwined with the success of its *doi moi*. The party leadership was aware that the cause of the collapse of communism in Eastern Europe and the Soviet Union was the failure to produce a viable economic model.⁶⁸

C. THE POLICY ON THE SPRATLYS DISPUTE

Vietnam's policy has not changed if we are speaking in a general sense about declaratory policy. Vietnam has issued a number of "white papers" on this question. It claims the Spratly is basically on historical grounds. In 1992, ASEAN issued a Declaration on the South China Sea. Vietnam readily agreed while China gave equivocal support. Vietnam shifted policy in 1992 in response to the Chinese assertiveness in the South China Sea. Despite the agreement by both of them to adhere to the 1992 ASEAN Declaration, both moved covertly to occupy and fortify garrison on occupied features.

Before 1992, Vietnam was uncompromising in settling the Spratlys disputes. Vietnam implemented physical occupation according to international law from at least six islets in 1975 to 35 islets or rocks now. At that period, Vietnam is very assertive in its rights to Spratlys and unfriendly towards China with Soviet Union backing.

⁶⁸ Williams, *Vietnam at the Crossroads*, p.63.

1992 was a watershed year because of the Chinese assertiveness. Within a month after the Beijing's controversial 1992 Territorial Sea Law proclamation, Chinese forces landed on Da Ba Dau reef near the Vietnamese-held island of Sin Cowe East Island. A clash of unknown intensity took place between Chinese and Vietnamese forces near Union Atoll on March 19, 1992. Four months later, Chinese marines landed on Da Lac reef on Tizard Bank. The final result was China occupied two more reefs. As in 1988, the Chinese People's Liberation Army (PLA) avoided direct assaults on occupied islands and landed on uninhabited reefs.⁶⁹ It was China's first move on the Spratlys since its occupation of six reefs in the March 1988 clash with Vietnam. China further occupied a number of features and this prompted Vietnam to do the same. The press called this the "scramble for the Spratlys."

In view of the fact that the Spratlys are claimed not only by Vietnam and the South China Sea as the main maritime route from Europe and the Middle East to Asia, Vietnam has adopted a four-point policy toward Southeast Asia, including the South China Sea. This policy states that Vietnam:

- (1) accepts the principle of settling disputes through peaceful negotiations and the nonuse of force, not forming alliances, and mutually beneficial cooperation in the interest of development and peace;
- (2) seeks to broaden its friendship and cooperation with all Asia Pacific countries;

⁶⁹ Tai Ming Cheung, "Fangs of the Dragon, Peking's naval build up sparks ASEAN reaction," *Far Eastern Economic Review*, 13 August 1992, p.19.

(3) supports strengthening cooperation with all neighboring countries and with ASEAN as a regional organization, eventually joining ASEAN, as well as participating in bilateral and multilateral dialogues and regional political and security forums in order to seek effective measures to ensure peace and stability in the region; and

(4) advocates settling through peaceful negotiations all disputes in the region, including those over territorial questions in the South China Sea. While seeking a settlement, maintain the status quo and refrain from acts that will further complicate the situation, and cooperate in development on issues such as hydro-meteorology, maritime navigation, environmental protection, salvage, anti-piracy and anti-drug trafficking.

This policy clearly demonstrates Vietnam's willingness to settle all disputes by peaceful means on the basis of mutual respect and understanding, taking into account the concrete situation of each country. Vietnam's "new thinking," put forward at the 1986 Sixth Party Congress, to pursue a policy of becoming friends with all countries for the cause of peace, stability, cooperation, and development, forms the basis of Vietnam's efforts to find a peaceful and acceptable solution for the South China Sea disputes.⁷⁰

D. THE U.S. AND JAPAN'S INTEREST IN THE SPRATLAYS DISPUTE

With the end of the Cold War, great changes were taking place in the Asia-Pacific regions among them the emergence of China and Japan as poles of the New World order. It is no coincidence that in Japan and China, a best seller with similar name received much publicity – "Japan that can say no" and "China that can say no." The implication

⁷⁰ Dao Huu Ngoc, *American Asian Review*, vol.12, no.4, Winter 1994, pp.23-37, available [Online] <http://www.paracels.com/srvn's%20view.htm> accessed on 18 April 2000.

here is that the two countries is not satisfied with their current status in world affairs especially vis-a-vis the U.S. How the U.S., Japan, and China manage their relationship will have a great impact on the security systems in the world as well as in the Asia-Pacific region. The U.S. and Japan are also viewing the Spratlys dispute with cautious. The tensions involve not only among claimant countries but others, which also have some interest in the region, and so various continuous measures have been undertaken by various parties to try to resolve the dispute.

Japan's optimistic view of the world order in the post-Cold War in which economic factor plays a decisive role was shattered during the Persian Gulf War. Military might still counts very much in crisis situations and the world seems not to be a safe place yet. How Japan, with its limited military power can be an important player in world affairs? The answer for the time being from Japan is that the country should be more active in multilateral operation and international organization so as to best contribute to peace on earth. Japan is slowly but steadily moving to that direction.

Sino-U.S. relations were in low ebb during the first term of President Bill Clinton. The reasons for that include geopolitical, economic and cultural issues. The major reason seem to be that the U.S. and Western countries want to engage China in a set of rules that are already being established by them. China, however, does not want to participate but rather have its own rules of game to be recognized worldwide.

The U.S. could become involved on two fronts, commercially and militarily. American businesses participating in offshore exploration in the disputed islands have a commercial stake in how inter-state tension and disputed claims are resolved. On the

military side, the U.S. has a mutual defense pact with the Philippines. Base on analysts, the U.S. would however likely take action if maritime activity was restricted in a manner inconsistent with international law.

In Vietnam's view, ASEAN, or even a combined Vietnam-ASEAN opposition to Chinese expansion, would be ineffective without the tacit U.S. backing. Hanoi try courting the United States by offering the use of Cam Ranh Bay to the U.S. Navy.⁷¹

Like the U.S., Japan has a vested interest in the resolution of the Spratly disputes. It is obvious that the disputed region is located near Japan's principal oil imports shipping lane. Moreover, the industrialized nations of Northeast Asia that rely heavily on trade and commerce depend largely on this vital sea-lane. The 1987 census indicates that around 45 percent of the total amount of imports to Japan pass from Persian Gulf through the Straits of Malacca thence to the South China Sea. Obviously any obstruction of the existing free passage through these lanes would have a severe impact upon Japan's industrial capacity and economy. Japanese companies too are involved in some of the exploration endeavors in the disputed territory. The other countries in Asia as well would be adversely affected in the event that China attempted to impose restrictions or controls over these major sea lines of communication (SLOC).

⁷¹ Associated Press, 21 December 1994.

IV. VIETNAM'S STRATEGY TO END THE SPRATLAYS DISPUTE

A. VIETNAM AND ASEAN

ASEAN was formed in 1967 to promote regional cooperation in economic, political, and cultural affairs. ASEAN was also created for security reasons in the midst of the Cold War. Understandably, geopolitics has always been the main focus of ASEAN affairs.⁷² Over the past thirty years there have been various bilateral disputes between ASEAN countries, including territorial ones, but none has led to military conflict; and today it is difficult to think of military conflict between ASEAN states. This is a remarkable achievement for a group of Third World countries once viewed as the Balkans of Asia.⁷³

Vietnam faces China, a superior power and tried to meet it by a diplomatic realignment. Later on, China join ASEAN in 1995. By that time it was evident that Hanoi favored a negotiated settlement to the dispute since it faced the prospect of continual and progressive islands seizures by superior Chinese forces. This urge for membership in the Southeast Asian community seems to be driven by two felt needs: one, to secure support in its enduring struggle with China; the other, to participate in the economic growth that its neighbors have already been enjoying.

After losing its Soviet ally to balance China, having been unable to resolve its territorial issue with China, and unwilling to accept "satellite" status, Hanoi felt it had

⁷² Chia Siow Yue and Marcello Pacini, *ASEAN in the New Asia: Issues & Trend*, (Singapore: Stamford Press Pte Ltd,1997), p.67.

⁷³Ibid., p.141.

only one practical option left in dealing with China. That is, to cultivate good relations with ASEAN and other regional states, as well as the U.S., in an effort to deter China from acting unilaterally in the South China Sea. Hanoi tried to persuade the U.S. to once again lease and use Cam Ranh Bay for the U.S. Navy but so far the reply was negative. The U.S. presence in the region, represented by the Seventh Fleet, is enough to protect American interests. This may change if Sino-American relations chill.⁷⁴

Vietnam has acceded to the Bali Treaty of Amity and Cooperation in Southeast Asia, and it became a member of ASEAN. Now that Vietnam has joined ASEAN, the diplomatic balance on the South China Sea issue will shift against China. A senior Vietnamese official has stated that the Vietnamese realize that they also need to make public protest and to mobilize international opinion or China will just keep expanding in the South China Sea.

Vietnam, therefore, also openly supports multilateral joint development of the Spratlys area. Believing that economic interests may influence diplomatic support, it has purposely awarded its production-sharing contracts to companies from as many different states as possible. Thus, Vietnam must be pleased that the 1995 Mischief Reef incident has finally caused ASEAN states to take seriously the threat from China and consider forming a united front.⁷⁵

⁷⁴ Rady, *Reinventing Vietnam: Doi Moi As A New Revolution?*, p.133.

⁷⁵ Mark J. Valencia, *China and the South China Sea Disputes*, (New York: Oxford University Press, 1995), p.33.

During the ASEAN-China dialogue meeting in late July 1999, Chinese Foreign Minister Tang Jiaxuan pleased ASEAN officials by pledging that China would be the first nuclear power to sign the protocol to the Southeast Asia Nuclear Weapons-Free Zone Treaty (as long as it did not cover the EEZs and continental shelves).⁷⁶

1. The Role of ASEAN as Mediator

Regional nation-states not directly involved in the Spratly disputes became concerned about regional stability so they established a regional forum to discuss the peaceful resolution of the disputes. ASEAN has played an important role in being a mediator when problems arise. Furthermore four of its member countries are claimants of the Spratly Islands. Sovereignty and exploration disputes were thought to be resolved with the drafting of ASEAN's 1992 Manila Declaration, which committed members to resolve disputes peacefully and to consider joint exploration of the territory.

Ironically, although China endorsed the 1992 ASEAN Declaration, China proceeded with foreign company contracts to explore areas with overlapping sovereignty claims in 1994. In 1995 it destroyed the Filipino military structures and erected Chinese concrete markers on the Philippine-claimed Mischief Reef. This antagonistic move by China virtually renders the 1992 joint declaration null and void. As protest against China's claim to the Mischief Reef, ASEAN took its stand by condemning the Chinese action for contravening the 1992 ASEAN Declaration on the South China Sea.

⁷⁶ "China supports anti-nuke treaty," *The Star*, 28 July 1999, available [Online] <http://www.thestar.com.my/online/newsreport.asp> accessed on 28 July 1999.

In an attempt to bring more countries into discussion, the Spratly issue was highlighted by the ASEAN countries when the annual ministerial ARF on security met in Brunei in July 1995. In most of the incidents that occurred, China seemed to be firmed with its claim. As an example, on one occasion, Pan Shiying, the top unofficial China's spokesman on South China Sea affairs, once told American officials that if China's offer for talks on joint development was refused, China would have no choice but to take over the island forcibly.

Efforts at building confidence and security cooperation are carried out by non-governmental organizations (NGOs) through "Track II" channels⁷⁷ in Southeast Asia. These "Track II" processes are financed by both government and private academic institutions, foundations and "think-tanks", and usually involve meetings of academics, journalists, business people, and government officials from foreign and defense ministries. Although these officials participate in their private capacity, the stature of the workshop would hopefully carry weight in the reports and recommendations that they submit to their governments. Their opinion may be decisive in shifting the priorities of these leaders from contemplating confrontation to pursuing cooperation, although at present neither course of action seems very likely. "Track II" multilateral unofficial consultative meetings focus on political and security issues considered too sensitive or disputatious to be raised at the "Track I" level.

⁷⁷ A mechanism of dialogue established in 1990.

Two of the most well-established and comprehensive second-track arrangements in the Asia-Pacific region are the CSCAP and the annual “Asia-Pacific Roundtable” organized by the ASEAN Institute of Strategic and International Studies (ASEAN ISIS). With regards to South China Sea dispute, China has demonstrated a preference for bilateral negotiations, where it feels it has more leverage over its counterpart. Thus, an important function of this informal discussion is to coax the Chinese into committing to multilateral arrangements.

Indonesia, being a neutral country as far as the Spratlys claim is concerned was the host country for all the “Track II” meetings. Since the purpose of the workshops is to build confidence and develop cooperation around the South China Sea, the organizers are most careful to avoid discussions or debates on sovereignty claims. They believe that the ensuing argument would only produce more heated emotions than rational discussions. At the very least, the “Track II” process provides a legitimate and respectable forum allowing for the usually weak and ignored non-governmental voices to be heard concerning security and other international and domestic issues.

It can be assumed that the Indonesian workshop illustrates the “ASEAN way” of problem management. It has built on the ASEAN approach by relying on informal contacts, controversy avoidance and incremental results. ASEAN as a collectivity has developed an informal and unstructured consultative process whereby its leaders and their representative may postpone a difficult issue by bypassing a conflict situation rather than attempt to resolve them, hoping that divisive matters will become irrelevant or harmless by manner of time or event.

A series of workshops were held to explore the conflicting claims in the area, but failed to make any significant advancement towards a solution of the most contentious issues. The objective of all these workshops is to establish cooperation and build the confidence of the parties so that regional cooperation in the Spratlys is possible. The non-governmental workshops contributed significantly to the process of mutual understanding. Recommendations were made to their governments not to use force to address the issue. They also explored cooperative activities to prevent piracy and drug trafficking, ensure navigational safety, and protect marine life. But in reality, these workshops have shortcomings because the governments can disregard the results and continue to pursue their own foreign policy in contradiction with workshop recommendations.

ASEAN states since 1967 have been able to put aside their conflicts and differences without necessarily solving them for two interrelated reasons. First, they realized that as small states intramural conflicts would leave them open to potential destabilization from the superpowers and their ideological proxies in the region. Second, they recognized the benefits of augmenting their collective influence in the region by creating the appearance and even substance of a united front while dealing with outside powers. As far as the Spratlys conflict is concerned, ASEAN has to manage the rise of China as a major power at least in South China Sea.

Furthermore, ASEAN members are concerned that the U.S. withdrawal of military troops from the region and the Soviet Union's disintegration will leave the region without a counterbalance to China. China's military might in the ASEAN region

is still superior, both quantitatively and qualitatively. The military strength of both China and Vietnam gives ASEAN reason to be alarmed.

ASEAN has expressed a wish to work closely with China in developing a regional code of conduct for the South China Sea. Drafts of the code of conduct prepared by both ASEAN and China reiterated the need to promote a peaceful, friendly and harmonious environment in the South China Sea for the enhancement of peace, stability, economic growth and prosperity. The only contentious issue is the code's scope, China wants to exclude the Paracels while Vietnam insists on its inclusion.⁷⁸

B. VIETNAM AND CHINA

The main conflicts between China and Vietnam flared in 1974 and 1988, when Chinese forces overcame Vietnamese patrols. Both parties have since raised the stakes in the dispute by contracting with foreign oil companies to develop possible petroleum reserves. The potential for broadened hostilities is ripe, and international law must find a solution. As neither China nor Vietnam is signatories to the jurisdiction clause of the International Court of Justice at The Hague, their submission to a decision issued by the Court would be voluntary. China maintains one judge on the Court, and is not opposed in principle to resolving the conflict at The Hague. It has made no attempt to do so because its nonmilitary claims to the Islands are tenuous and its recent advances violate the UN Charter, which does not recognize territorial gains by forceful conquest. Thus, it is

⁷⁸ "PRC Wants Free Access by Fishermen to Spratlys," Translated by Foreign Broadcast Information Service, *FBIS Daily Report-East Asia*, available [Online]: FBIS/Search/Vietnam accessed on 2 May 2000.

unlikely that China will voluntarily submit itself to the International Court of Justice, the most appropriate institution for resolving the conflict.⁷⁹

In pursuing its national interests, Vietnam has undertaken actions, which appear highly provocative from China's point of view. For example, during Vietnam's long struggle for independence it made no public protests over Chinese claims to territory in the South China Sea and indeed supported them. However, after unification Vietnam reversed its stance. In 1975, Vietnam occupied a number of islands in the Spratly archipelago and subsequently pressed territorial claims to the entire South China Sea.⁸⁰

⁷⁹ Monique Chemillier-Gendreau, "*La Souverainete sur les Archipels Paracels et Spratleys.*" Translation available [Online] <http://www.paracels.com/monique-c-gendreau.htm> accessed on 22 March 2000.

⁸⁰ Frank Ching, "Reassessing South Vietnam," *Far Eastern Economic Review*, 10 February 1994, p.34.

As Foreign Minister Nguyen Manh Cam admitted to a press conference in Hanoi
on 2 December 1992,

Our leaders' previous declaration on the Hoang Sa (Paracel) and Truong Sa (Spratly) archipelagoes was made in the following context: At that time, under the 1954 Geneva agreement on Indochina, the territories from the 17th parallel southward including the two archipelagoes were under the control of the South Vietnam administration. Moreover, Vietnam then had to concentrate all its force on the highest goal of resisting the U.S. aggressive war to defend national independence. It had to gain support of friends all over the world. Meanwhile, Sino-Vietnamese relations were very close and the two countries trusted each other. China was according to Vietnam a very great support and valuable assistance. In that context and stemming from the above-said urgent requirement, our leaders' declaration (supporting China's claims to sovereignty over the Paracel and Spratly Islands) was necessary because it directly served the fight for the defense of national independence and the freedom of the motherland. More specifically, it aimed at meeting the then immediate need to prevent the U.S. imperialists from using these islands to attack us. It has nothing to do with the historical and legal foundations of Vietnam's sovereignty over the Truong Sa and Hoang Sa archipelagoes.⁸¹

These statements show that what the Chinese have alleged are true. What happens today related to these two islands are merely consequences of the settlement of these two communist brothers in the past. No one in the world community wants to step in to settle the dispute between Vietnam and China. The reason is very clear: diplomatic note and recognition by the Vietnamese Communists can't be erased by a small country like Vietnam who has wanted to play a trick cheating China. Moreover, Vietnamese Communists can't stay away from China while they have to follow Chinese *doi moi* to go

⁸¹ *Vietnam News Agency*, 3 December 1992.

forward to socialism.⁸² Vietnam's strategic role and choices really depends on its relationship with China.

China and Vietnam are the most involved in the Spratlys dispute, each having to argue not only against each other but also against almost all the other claimants. From this it follows that peace in the South China Sea will largely depend, on what these two socialist states are prepared to do in the way of resolving the issues.⁸³ China and Vietnam share a very important common interest: the successful development of their "socialist market economies." Both stands alone among the five remaining socialists' states, the other are North Korea, Laos, and Cuba, as the most likely to succeed in this ideological endeavor.⁸⁴

In the light of China's size, economic vigor, military upgrading--particularly its navy and air force --and its past conflicts with other nations in Southeast Asia, it is not surprising that China's moves in the Spratlys in the past have reinforced fears about its intentions in the region. The lack of transparency of Beijing's approach, especially in the military area, has produced different assessments of China's security policy towards Southeast Asia and the Asia-Pacific region in general. Given China's limited naval capability at present to take and hold the islands, some see a pattern of hot-and-cold

⁸² Ching, "Reassessing South Vietnam," 10 February 1994, p.34.

⁸³ Choon-Ho Park, *East Asia and the Law of the Sea*, (Seoul: Seoul National University Press, 1983), p.239.

⁸⁴ Carlyle A. Thayer, "Models to the North," *The Vietnam Business Journal*, February 1999, p.28.

tactics by China that is intended to throw the other claimants off balance until it is able to enforce its claim through intimidation or force.⁸⁵

Vietnam has showed enough willingness since 1992 to resist Chinese encroachments on its southern waters that Beijing has turned its attentions to the Philippines. Manila relied for so long on the U.S. presence that it has scanted ways of defending itself. But China will pick off each in turn, just as it grabbed the Paracels from a divided Vietnam in 1974, and used force against a diplomatically isolated Vietnam in 1979 and 1988 to curtail its presence in the Spratlys. China has come a long way in the South China Sea in 25 years. At this rate the sea may be all-Chinese by the year 2050. The long game will have paid off.⁸⁶ The recent encroachment is a continuation of a goal set many years ago to dominate the South China Sea, and it follows a pattern dating to 1992, be willing to talk about the area and offer the prospect of joint development with other claimants while proclaiming total sovereignty and creating realities when opportunities arise. It has been an effective strategy.⁸⁷

With several notable exceptions on the part of China, both China and Vietnam have mainly engaged in a deliberate strategy of using non-military means-chiefly oil exploration contracts-to reinforce their positions and probe opponents' weaknesses. Vietnam has also used its prospective undisputed offshore blocks as bait. Government

⁸⁵ "Oil-prospective Spratlys still a flashpoint," p.35.

⁸⁶ Philip Bowring, "China Is Slowly Winning a Long Game for the Sea," *International Herald Tribune*, available [Online] <http://www.paracels.com/spratlys%20typhoon.htm> accessed on 22 March 2000.

⁸⁷ "Oil-prospective Spratlys still a flashpoint," p.35.

officials have told operators unofficially in negotiations that their applications for attractive undisputed blocks would be viewed more favorably if they were willing to sign contracts for disputed acreage in and around the Spratly Islands, industry sources say.

From Hanoi's perspective, China's practice of exploiting Vietnam's weaknesses is not new. In 1956, when Vietnam was just recovering from the first Indochina War, China seized some of the Paracels Islands. The remaining islands were subsequently seized in 1974 when the Saigon regime was weakened following the American pullout. When, in 1988, Vietnam was caught in an economic crisis and Soviet support had been reduced, China seized six islands in the Spratlys. Although Vietnam did not protest about the earlier actions, it now argues that its silence was necessary to maintain China's support during the Vietnam War. China has simultaneously tried to reassure the other jittery Southeast Asian claimants and ASEAN as a whole that this issue concerns only itself and Vietnam and that China has no expansionist intentions.⁸⁸

The reasons for targeting Vietnam were obvious. Vietnam was China's principal adversary in the region, it claimed the entire archipelago and the Chinese were incensed at Vietnam's *volte-face* in challenging China's sovereignty since 1975. Moreover, Vietnam was internationally isolated as a result of its occupation of Cambodia and the Soviet Union was strengthening its relations with ASEAN and China at the expense of Vietnam. The Soviets were unlikely to come to Vietnam's assistance, especially as they had failed to do so when China launched an attack across Vietnam's northern border in

⁸⁸ "Jiang the Discreet," *Far Eastern Economic Review*, 23 November 1994, p.32.

1979 at a time when the Soviet-Vietnamese alliance was strong. Nor were the ASEAN nations likely to protest over action directed at Vietnam.⁸⁹

The Soviet response to the naval conflict between China and Vietnam on 14 March 1988 have convinced more people in Beijing that Moscow would not give the Vietnamese substantial help in their confrontation with the Chinese, and that Moscow viewed its relationship with Beijing as more important than that with Hanoi.⁹⁰

By May 1988, China had established a physical presence in the Spratlys and had decisively defeated Vietnam in a naval clash without incurring international or regional condemnation. No state of significance had rallied to support Vietnam. Although the other claimants were alarmed and expressed concern over the events, they had distanced themselves from the conflict.⁹¹

In 1988 and 1989, the Chinese called on Vietnam to give up its claim of the archipelago. The Chinese occupied further reefs, reinforced their garrisons and increased their naval presence in the Spratlys. In response, Vietnam occupied between ten and twelve additional reefs and increased its military presence in the area. Then the geopolitical situation turned against China. A significant deterioration in China's global foreign relations took place as a result of the Tiananmen Square massacre in June 1989, with Sino-Western relations reaching their lowest point since the early 1970s. Seeking to

⁸⁹ Chris Roberts, "Chinese Strategy and the Spratly Islands Dispute," Working Paper no.293, (Canberra: The Strategic and Defense Studies Centre, 1995), p.15.

⁹⁰ Sheng Lijun, "China's Policy Towards the Spratly Islands in the 1990s," Working Paper no.287 (Canberra: The Strategic and Defense Studies Centre, 1995), p.12.

⁹¹ Roberts, "Chinese Strategy and the Spratly Islands Dispute," p.17.

avoid further international isolation, the Chinese government's approach to the Spratlys disputes changed abruptly. Although China continued to improve its infrastructure in the islands, the openly confrontational attitudes towards Vietnam evaporated and in November 1991, diplomatic relations between the two countries were restored. Beijing also moved to reassure ASEAN states.⁹² Many analyst believe China is stalling on the code of conduct proposed by ASEAN. China seems to oppose any such code and currently is unable to launch a credible military campaign in the Spratlys.⁹³

As related by Zagoria,

By 1992, relations between the two countries were seriously troubled, largely by China assertiveness in the South China Sea.⁹⁴ Since then the conflict has continued to escalate, a recent incident occurring in early 1995 when China took a step that marked a major turning point in its relations not only with Vietnam but also with the entire region. Beijing established a presence in the Spratlys on Mischief Reef, which lies within the 200-nautical-mile exclusive zone off the Philippine coast. China also left marker claims on other reefs within this Philippine zone. Manila immediately protested the moves and took some actions against China. This was the first time in any of its disputes over the Spratlys that China sought to enforce a claim and establish a semi-permanent presence within the generally accepted 200-mile zone of another claimant. It was therefore an alarming act not just for the Philippines and Vietnam but for other Southeast Asian nations too.⁹⁵

⁹² Ibid., p.18.

⁹³ "China's Troubling Weapons Buildups," *FBIS Daily Report-East Asia*, available [Online]: FBIS/Search/Vietnam accessed on 2 May 2000.

⁹⁴ Donald S. Zagoria, "Joining ASEAN," *Vietnam Joins the World*, (Armonk, New York: M.E. Sharpe, 1997), p.156.

⁹⁵ Phillip Bowring, "The Spratlys: China's Neighbors Are Losing Patience," *International Herald Tribune*, 7 April 1995.

1. Vietnam Rapprochement with China

Conflict over the Spratlys could spill over into other areas of sea-lanes of the South China Sea if China and Vietnam were the protagonists. For nearly a millennium after it had escaped China's embrace in the eleventh century, it continued to live in fear of Imperial China. Although it had defeated France and the U.S., it was aware that they were distant powers, whereas China was on the doorstep.⁹⁶

China and Vietnam normalized their relations in November 1991, twelve years after the latest round of hostilities between the two countries ended. Hanoi proposed to Beijing a restoration of their relationship that was likened to "being as close as lips and teeth." China, stung by Vietnam's tough resistance in the 1979 Sino-Vietnamese border war, replied that the two could be "comrades but not allies."⁹⁷

Vietnam had to be forced to admit that its attempt at exercising political hegemony and be a "big brother" over Indochina had failed. Finally, Vietnam had to accept for rapprochement with China. Despite the settlement of the Cambodia question, normalization of relations has left a host of bilateral problems. The most obvious are the two countries' ill-defined borders and their competing claims of sovereignty over the Paracel and Spratly Islands.⁹⁸

⁹⁶ Michael C. Williams, *Vietnam at the Crossroads*, (New York: Council on Foreign Relations Press, 1992), p.64.

⁹⁷ Carlyle A. Thayer, "Models to the North," *The Vietnam Business Journal*, February 1999, p.28.

⁹⁸ Williams, *Vietnam at the Crossroads*, p.71.

2. Vietnam and China Relationship in the Post-Deng Xiao-ping Era

China and Vietnam's relationship improved further after the demise of Deng Xiao-ping in 1997. Both have worked out a new mechanism to govern their bilateral relationship in this new century. Agreement was reached during the February-March 1999 visit to China by Le Kha Phieu, Secretary General of the Vietnam Communist Party (VCP). China and Vietnam have reiterated their commitment to settling land border and maritime disputes in the Gulf of Tonkin before the end of year 2000. They have also mapped out an extensive program of reciprocal visits and areas of cooperation.

Sino-Vietnamese ties were reinforced in May 1999 when Deputy Prime Minister and Politburo member Nguyen Tan Dung journeyed to China to study the applicability of its reform process. Both countries are one-party states embarked on developing a market economy. Vietnam is keen to learn any useful lessons concerning how China is reforming its state owned enterprises and divesting its military of commercial interests.⁹⁹

Bilateral relations between China and Vietnam continued to improve steadily in 1999. The China-Vietnam joint working group on the land border held its 15th meeting in Hanoi over a period of four weeks. Both sides worked hard to reach agreement by the end of the year in accordance with a deadline set by their party leaders earlier. Discussions with officials in Hanoi in August 1999 reveal that resolving the technical

⁹⁹ Carlyle A. Thayer, "Some Progress, along with Disagreements and Disarray," *Comparative Connections*, (Asia-Pacific Center for Security Studies, Honolulu: April-June 1999), p.4.

details involving 76 disputed areas may result in this deadline being put off until year 2000.

Meanwhile, cross border relations continue to develop positively. China has now completed its de-mining efforts. Postal services have been restored between Lang Son province and Guangxi. A border trade fair was successfully held in Guangxi in September 1999, while construction on a bridge across the Nam Thi River between Lao Cai and Kehou has commenced. During this quarter Vietnam sent delegations to China representing the National Assembly, Ho Chi Minh Communist Youth Union, Vietnam Union of Friendship Organizations, and the Vietnam Journalists Association. China, for its part, sent to Vietnam delegations representing the Chinese Communist Party Central Commission for Document Edition and Research and the Chinese People's Political Consultative Conference, which attended the Fifth Congress of the Vietnam Fatherland Front. During September 1999, Vietnam sponsored a number of public ceremonies to mark the 50th anniversary of the founding of the People's Republic of China.

At a reception, the VCP General Secretary Le Kha Phieu said the signing of the Land Border Treaty between Vietnam and China was a fundamental step toward creating favorable conditions for the management and maintenance of stability in the Vietnam-China border area, strengthening the mutual trust, solidarity and multi-faceted co-operation between the two countries. He highlighted the significance of the agreement, saying that it will contribute to consolidating peace and stability in the region, and at the same time for Vietnam and China to accelerate the negotiating process so as to reach the signing of an agreement on the Delimitation of the Gulf of Tonkin in year 2000. The

party leader also affirmed determination of the Party, the state and people of Vietnam to foster the ever lasting Vietnam-China relationship forever.¹⁰⁰

This demonstrates that relations between China and Vietnam have grown particularly close. Increasingly Vietnamese leaders are acknowledging that Chinese reform efforts may provide some useful lessons for Vietnam. This development bears close scrutiny as there are conflicting signals. In July 1999, Vietnam made major concessions in its negotiations with the U.S. on a preliminary draft of a bilateral trade agreement, and a final agreement was expected at the APEC summit in September 1999. However, the Politburo balked and no agreement was reached. Reports indicated that small-scale Chinese military incursions on Vietnamese territory might have been responsible for this turnaround. Subsequent reports indicate that Chinese leaders may have persuaded their Vietnamese counterparts to wait until China reached an agreement on trade issues with the U.S. before proceeding. China and Vietnam need to reach agreements on trade issues with the U.S. before they can join the WTO.¹⁰¹

Vietnam finds that China is its main strategic problem and not the solution to the dispute. Vietnam has four general options for handling the threats to its security that emanate primarily from China. In order of probability, from lowest to highest, these are: collective security; a coalition of medium powers in the region; alliance with a great power; or accommodation with Beijing. The best strategic bet in principle would be the

¹⁰⁰ Available [Online] <http://www.vietnamembassy-usa.org/pressrel.htm> accessed on 24 February 2000.

¹⁰¹ Carlyle A. Thayer, "Beijing Plans for a Long-term Partnership and Benefits from Anti-Western Sentiment," *Comparative Connections*, (Asia-Pacific Center for Security Studies, Honolulu: July-September 1999), pp.3-4.

third, but this is not likely to be realized.¹⁰² If there is any power likely to need balancing in Asia in the early of this century it is not Moscow's or Hanoi's, but Beijing's.¹⁰³

C. THE VIETNAMESE MILITARY BUILD-UP

Vietnam has the largest army in the Southeast Asia but it is poorly trained and ill equipped compared to the other Spratlys claimants' especially China. (See Table 3.) The present naval and air capabilities would not allow much of a contest in the South China Sea as seen in the 1988 clash with China, although Vietnam has an advantage in terms of distance from main bases to the Spratly Islands.¹⁰⁴

Table 3: The Military Strength of the Main Actors

	China	Vietnam	Philippines
Tanks	9,200	2,000	126
Submarines	51	0	0
Destroyers and Frigates	55	7	1
Patrol and Coastal Aircraft	870	55	44
Combat Aircraft	5,845	190	43
Armed Forces	2,930,000	572,000	106,500

Source: Available [Online] <http://www.reedbooks.com.au/heinemann/hot/spratab.html> accessed on 18 March 2000.

In 1992, Vietnam's military budget was increased for the first time in five years. Navy and air force modernization was given priority. Vietnam acquired corvettes

¹⁰² Richard K. Betts, "Vietnam's Strategic Predicament," *Survival*, Autumn 1995, vol.37, no.3. p.74.

¹⁰³ Ibid., p.77.

¹⁰⁴ Ibid., p.68.

(a Tarantul-class variant) from Russia, coastal patrol crafts, SSMs, and other assorted electronic and communication gear.¹⁰⁵ Vietnam has received six Su-27 FLANKERs and plans on purchasing an additional six.¹⁰⁶ The Vietnamese Air Force (VNAF) is considering buying Su-30 multi-role fighters from Russia to complete its aircraft acquisition.

The Vietnamese military build-up can be seen through its detailed development and deployment plans for the Vietnamese Navy (VN) and the VNAF. The VN is primarily a coastal-defense force, which has been assigned the added roles of EEZ surveillance in the South China Sea and Gulfs of Thailand and Tonkin, and the protection of the Spratly Islands. It comprises of eight aging frigates, an assortment of fifty-two missile fast-attack, large patrols and coastal patrol craft, seven amphibious ships, six landing craft and eleven assorted minesweepers. Nearly all of the Vietnamese ships are armed with small caliber guns. Its naval manpower is estimated at 42,000, including 30,000 naval infantry.¹⁰⁷

The major strategic function of the VN includes the denial of complete freedom of action for the PLA(Navy) in the oilfields of the South China Sea and in the Spratly Islands. The tasks imposed a force projection function on the VN, albeit limited to 150-200 nautical miles from the Vietnamese's coast. Its response was shifting from their

¹⁰⁵ Carlyle A. Thayer, "Force Modernization: The Case of the Vietnam People's Army," *Contemporary Southeast Asia*, vol.19, no.1, June 1997, p.4, p.14.

¹⁰⁶ "Vietnam Modernizes Aircraft," *Jane's Defence Weekly*, 19 August 1995, p.12.

¹⁰⁷ Thayer, "Force Modernization: The Case of the Vietnam People's Army," p.17.

normal base at Hai Phong and down to Da Nang and Cam Ranh Bay. Spratly Islands operational responsibilities were shifted from Naval Command Hai Phong to the Naval Command Da Nang.¹⁰⁸

The 162nd Naval Brigade at Da Nang was responsible for developing the new offshore strategy, and to recommend an affordable force structure to implement it. The 172nd Naval Brigade was transferred from Hai Phong to Cam Ranh Bay, and responsible for developing offshore EEZ patrol, anti-piracy and anti-smuggling strategy and force structure requirements. While the 125th Naval Brigade at Ho Chi Minh City was assigned responsibility for developing strategies and force structure to support Vietnamese activities in the Spratly Islands.¹⁰⁹

The VNAF consists of 196 combat aircraft, 33-armed helicopters, and an assortment of other craft, mainly for transport and training purposes. The mainstay of the VNAF combat air arm is the Su-22 FITTER, Su-27 FLANKER and MiG-21 FISHBED. It is not clear how many aircraft are operational. Air force manpower totals 15,000. Vietnam's air force is equipped for a self-defense role. It is unable to mount strikes beyond the geographic region of Indochina, Thailand and southern China. It lacks in-flight refueling and airborne early warning and control system (AWACs) capabilities and is unable to maintain continuous air cover over the Spratlys.¹¹⁰

¹⁰⁸ Mark Farrer, "Stresses in the South China Sea -Vietnam and China," *Asia-Pacific Defence Reporter*, January 2000, p.14.

¹⁰⁹ Ibid., p.14.

¹¹⁰ Thayer, "Force Modernization: The Case of the Vietnam People's Army," p.19.

As mentioned by Farrer,

The critical problem for the VN is their ability to project power beyond the coastline. The response has been two-pronged. First, in the early 1990s the VN concentrated most of its Shershen PT (patrol boat), Turya PTH (heavy patrol boat), and Osa PTG (patrol boat with guided missile) force at Da Nang and Cam Ranh Bay. The VNAF assigned a regiment of Su-22 FITTER strike aircraft to conduct maritime strike in support of these light surface forces, and a reporting network of offshore stations and armed fishing boats was used to provide a surface picture. The second prong of the plan was the acquisition of new units and capabilities. The first result was the purchase of four Tarantul-class PTG. The first pair was delivered in 1996, and a second pair is to be delivered in 2000. Their bases are Da Nang or Cam Ranh Bay. The VN has also been authorized to acquire four frigates to replace the old Petya class. They also are reported to be interested in two second-hand Parchim-class FFL (fast light frigate) from Russia to supplement the Petyas in the interim. If acquired, the Parchims will be fitted with SS-N-25 SWITCHBLADE SSM. Vietnam is also building its own PTG. These are the HO-A class, being built at Ho Chi Minh City. The old FITTERs of the 937th Ground Attack Regiment have provided a good training ground for the VNAF in over-water operations. Sources say that the FLANKERs have occasionally been seen flying over the port and heading out to sea. As the FLANKERs are also based at Phan Rang, it is likely that they are being used to supplement the FITTERs on Spratly Island patrol, and will replace them in this role.¹¹¹

The VN is in the middle of a major change as can be expected for a poorly funded service. Their coastal interdiction capability are extended to a limited area denial capability. This based at Da Nang, where it can be used either in the South China Sea, or in the Gulf of Tonkin. For the VN's future, its main strength will lie in its slowly modernizing PTG force, as shortage of funding may probably preclude the acquisition of

¹¹¹ Farrer, "Stresses in the South China Sea -Vietnam and China," pp.14-15.

frigates. The other logical step is for closer integration of PTG and VNAF maritime strike capabilities, but this will take at least five years.¹¹²

D. VIETNAM'S OCEAN POLICY THROUGH UNCLOS

To resolve disputes and regulate issues, in 1982 the UN finalized the Law of the Sea Convention or UNCLOS III. It came into force on 16 November 1994. It is aimed at establishing coastal boundaries, erecting an International Seabed Authority to regulate seabed exploration not within territorial claims, and to distribute revenue from regulated exploration. Now all of the claimant countries except Taiwan have subscribed to UNCLOS. Taiwan is not eligible to be a party.¹¹³

The 1982 UNCLOS created a number of guidelines concerning the status of islands, the continental shelf, enclosed seas, and territorial limits. Three of the most relevant to the South China Sea are:

- Article 3, which establishes that “every state has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles”;
- Articles 55 - 75 define the concept of an EEZ, which is an area up to 200 nautical miles beyond and adjacent to the territorial sea. The EEZ gives coastal states “sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to (above) the seabed and of the seabed and its subsoil...”

¹¹² Ibid., p.15.

¹¹³ United Nations Convention on the Law of the Sea, 10 December 1982, UN Doc.A/CONF.62/121, reprinted in 21 I.L.M. 1261 (1982).

- Article 121, which states that rocks that cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

The establishment of the EEZ created the potential for overlapping claims in semi-enclosed seas such as the South China Sea. These claims could be extended by any nation, which could establish a settlement on the islands in the region. South China Sea claimants have clashed as they tried to establish outposts on the islands (mostly military) in order to be in conformity with Article 121 in pressing their claims.¹¹⁴

Separate from the issue of which nation has sovereignty over the rocks and islands are the question of whether the islands can themselves “sustain human habitation or economic life of their own.” This is the minimum criterion for an island to generate its own continental shelf or EEZ. Even if human life can be sustained, islands carry less weight than continental borders in generating EEZs under the prevailing interpretations of the Law of the Sea, according to Richard E. Hull.¹¹⁵

Artificial islands on which structures have been constructed are entitled to a 500-meter safety zone, but they cannot generate a territorial sea, much less a continental shelf or an EEZ. Features that appear only at low tide can generate a partial 12-mile territorial sea if they are within 12 nautical miles of any feature that generates a territorial sea.

¹¹⁴ Available [Online] <http://www.paracels.com/energy.htm#FIG1> accessed on 2 April 2000.

¹¹⁵ “Oil-prospective Spratlys still a flashpoint,” p.37.

Features submerged at low tide are not subject to sovereignty claims and generate no maritime zones whatsoever.¹¹⁶

Concerning jurisdictional claims, Vietnam officially pledges to abide by UNCLOS. Vietnam was the first country in the region to claim a 200 nautical miles EEZs as accorded in Article 56 and 57. In May 1977, Vietnam claimed an entire suite of maritime zones. Additionally, Vietnam also claimed the continental shelf to the edge of the continental margin or out to 200 nautical miles from its straight baseline.¹¹⁷ Most of Vietnam's claims are historical, but they are also based upon internationally accepted principles extending territorial claims offshore onto a country's continental shelf, as well as the 1982 UN Convention on the Law of the Sea.¹¹⁸

According to Valencia, Van Dyke, and Ludwig,

The word rock is not defined in UNCLOS, and has been subject to several interpretations. One paper prepared by a U.S. law firm employed by Vietnam asserted that a consensus exists, and that "the overwhelming majority of commentators have argued that the term should be interpreted as including any small island." This paper stressed that the consensus agreed that the "human habitation" formula requires at least the possibility of a permanent civilian population and not just soldiers and lighthouse keepers.¹¹⁹

¹¹⁶ "Oil-prospective Spratlys still a flashpoint," p.37.

¹¹⁷ *Nhan Dan*, 13 May 1977.

¹¹⁸ Available [Online] <http://www.paracels.com/energy.htm#FIG1> accessed on 2 April 2000.

¹¹⁹ Brice M. Clagett, *Competing Claims of Vietnam and China in the Vanguard Bank and Blue Dragon Areas of the South China Sea*, available [Online] <http://www.cov.com/practice/profiles/CLAGETT1.HTM> accessed on 13 November 1999.

Valencia et.al. further adds,

The Spratlys were not inhabited except by the occasional fishermen until recent times. Although they were occasionally visited, they certainly had no independent economic life of their own. The language in Article 121 (3) appears to require that the relevant “economic life” of features must be of their own. An artificial economic life supported by a distant population in order to gain control over an extended maritime zone is not sufficient.¹²⁰

One author suggested that only islands that have shown the ability to sustain stable human populations of at least 50 persons should be allowed to generate maritime zones, and that the Spratlys clearly do not fulfill this requirement.¹²¹ Other authors have reached the same conclusions on the inability of these islets to sustain human habitation and thus to generate EEZs or continental shelves. Vietnamese officials now appear to have adopted the view that the Spratly islets cannot generate EEZs or continental shelves. Although the arguments against allowing any of the Spratlys to generate extended zones seem strong, occasional authors continue to suggest that at least some of the islands can generate zones.¹²² While China and Taiwan frequently acts if it assumes the islets can generate extended zones.¹²³

¹²⁰ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.43.

¹²¹ Jon M. Van Dyke and Dale L. Bennett, “Islands and the Delimitation of Ocean Space in the South China Sea,” *Ocean Yearbook 10*, 1993, p.62.

¹²² Daniel J. Dzurek, “Southeast Asian Offshore Oil Disputes,” *Ocean Yearbook 11*, 1994, p.157, p.170.

¹²³ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.44.

Valencia et.al. also explains that,

Article 60(8) of the UNCLOS states clearly that artificial islands do not have the capacity to generate EEZs or continental shelves. It appears to be necessary to characterize some of the current structures as “artificial islands.” The Chinese occupations of Subi Reef and Johnson South Reef seem like obvious candidates for this characterization, as does the Malaysian occupation of Dallas Reef, and the Vietnamese occupations of Vanguard and Prince of Wales Banks. Article 60(8) was designed to discourage nations from building up submerged reefs and low-tide elevations in order to generate extended maritime zones where none had existed previously. If it is not interpreted according to its clear language, then there will be continued efforts to reclaim submerged features in order to lay claim to open ocean areas.¹²⁴

Article 3 allows “Every state” to establish territorial seas around its land areas “to limit not exceeding 12 nautical miles” and Article 121 allows every feature that is above water at high tide to generate such a zone. Vietnam declared a 12 nautical miles territorial sea around the Spratlys in a 1977 statement¹²⁵ and China declared it too in its 1992 Territorial Sea Law. Although the UNCLOS allows countries to declare a 12 nautical miles territorial seas around coasts and islands, it does not mean that a territorial sea of this size is legitimate in allocations and for all purposes. In Article 300, entitled “Good faith and abuse of rights” countries are reminded that they must not invoke rights under the UNCLOS in a manner that imposes an unacceptable burden on other countries.

¹²⁴ Ibid., pp.45-46.

¹²⁵ Gerardo M.C. Valero, “Spratly Archipelago Dispute,” *18 Marine Policy*, 1994, p.314, p.323.

An example is, where states have agreed to establish territorial seas of less than 12 nautical miles around islands that are on the wrong side of a median boundary line.¹²⁶

As further explains by Valencia et.al.,

If one concludes that the Spratly islets do not have the capacity to generate EEZs or continental shelves, then the maritime boundaries of these zones must be determined by reference to the continental land masses and the larger bordering islands. The continental shelf southeast of Vietnam and northwest of Sarawak (Malaysia)/Brunei border extends substantially beyond 200 nautical miles from the respective coasts. Under Article 76(5), Vietnam and Malaysia would each apparently be allowed to claim the resources on this shelf out to 350 nautical miles, in the absence of competing claims.¹²⁷

Under Article 76 and Annex II anticipate the establishment of a 21-member Continental Shelf Commission. This Commission will evaluate claims by coastal nations for shelves extending beyond 200 nautical miles. Selection of members for this Commission is underway at this time. The complex formula found in Article 76, make it necessary to have a neutral body to evaluate the claims made by nations seeking additional resources. However, it is still unclear, what this Commission would do in a situation where the extended claims overlap. Even though phrased as “recommendations,” the Commission’s decisions must be respected by the concerned nations. If Vietnam were to submit a claim to the Commission, its ruling will have a major impact on the ultimate delimitation of boundaries in the Asia-Pacific region.¹²⁸

¹²⁶ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.47.

¹²⁷ Ibid., p.48.

¹²⁸ Ibid., p.49.

V. CONCLUSION

At present, Vietnam's general statement on the Spratlys dispute is "Vietnam holds it that a fundamental and long-term solution to disputes in the area should be sought through negotiations. Pending such a solution, the parties concerned should maintain status quo, take confidence-building measures, exercise self-restraint, not take any action that would further aggravate the situation, not threaten or resort to force, completely respect the international laws, especially the 1982 UN Convention on the Law of the Sea and act according to the spirit of the ASEAN's 1992 Manila Declaration on the Eastern Sea (South China Sea) and the December 1997 ASEAN-China Joint Statement."¹²⁹

For Vietnam, a solution is needed because the present situation is encouraging unilateral actions by the other claimants especially China and presenting continuing opportunities for involvement of outside power like the U.S. and the future major powers of the 21st century - Japan, India and a resurgent Russia. There are already signs of an informal security-cooperation chain forming between Vietnam, India, and Japan. They all share a common strategic concern in China. These security ties will produce mild alarm to Beijing.¹³⁰ The possible expansion of the Indian and Japanese Navy into the South China Sea will not be kindly received by China.

¹²⁹ "Vietnam Deeply Concerned over Developments in Truong Sa," available [Online]<http://www.vietnamembassyusa.org/9927%20Vietnam%20Deeply%20Concerned%20over%20truong%20sa.htm> accessed on 2 March 2000.

¹³⁰ Nayan Chanda, "After the Bomb," *Far Eastern Economic Review*, 13 April 2000.

The following are my findings on Vietnam's policy and strategy since 1992 on the Spratlys dispute and my evaluations of possible solution.

A. WILL THE WOOING OF ASEAN HELP VIETNAM?

There is a prevailing sense within ASEAN that China is stalling for time until it is powerful enough to assert sole ownership of the disputed South China Sea islands.

Zagoria mentions that,

Skeptics will say that ASEAN is a very weak reed for Vietnam to rely on in balancing China. The ASEAN countries have neither the military power nor the will to contest China's claim in the South China Sea. Still, Vietnam must be mindful of the fact that the ASEAN states were successful in exerting diplomatic and political pressure against Vietnam during the 1980s both at the UN and in other fora and that this pressure ultimately played a role in forcing Vietnam to withdraw from Cambodia. If the ASEAN states were able to use their political and diplomatic weight in conjunction with other great powers to restrain Vietnam, why can they not use comparable diplomatic pressure to restrain China in the Spratlys?¹³¹

The participation of China in the ARF, considered as Asia's premier, albeit limited, security structure, is less a commitment to surrender sovereignty to an international arrangement than a way to make sure that nothing is done to limit China's ability to pursue its own national security objectives.¹³² Nevertheless, the wooing of ASEAN by Vietnam is rewarded in terms of restraining China and the other claimants from being assertive in the Spratlys dispute.

¹³¹ Zagoria, "Joining ASEAN," p.157.

¹³² Gerald Segal, "Does China Matter?" *Foreign Affairs*, vol.78, no.5, Sept/Oct 1999, p.32.

B. WILL RAPPROCHEMENT AND DIPLOMACY PREVENT CHINA'S ADVANCES IN THE SPRATLYS AND THE SOUTH CHINA SEA?

One cannot understand China's strategic behavior and policy without analyzing the strategic thinking and thoughts of China's decision-makers, especially Deng Xiaoping's (1905–1997) eight strategic principles that have provided the foundation for Jiang Zemin's policy towards the South China Sea since the post-Cold War era. We need to understand China's changing perception towards the sea and its preparations to face the challenges from possible maritime conflicts in the twenty-first century.¹³³

The six countries claiming territorial rights will learn one lesson from all the discussions regarding the disputes. That is, diplomacy is unlikely to stop China from vigorously exercising its claim to the Spratly Islands. For China, the Spratlys are a strategic asset not to be given away over the negotiating table. Vietnamese rapprochement with China would work to prevent China from further exploiting Vietnam and seizing the areas occupied by Vietnam in the Spratlys. The early signs of rapprochement with China look promising to Vietnam. It also seems to be making progress through diplomacy in slowing down Chinese expansionist in the Spratlys and the South China Sea.

¹³³ Shee Poon Kim, "The South China Sea in China's Strategic Thinking," *Contemporary Southeast Asia*, vol.19, no.4, March 1998, p.369.

C. WILL VIETNAM'S MILITARY BUILD-UP PREVENT CHINA'S ADVANCES IN THE SPRATLYS AND THE SOUTH CHINA SEA?

The Pentagon officials believe that the Chinese are building a fuel depot for Su-27s or future Chinese FB-7 fighter bombers to increase the range of the jets and allow them to be able to reach the Spratlys.¹³⁴ China has converted at least 20 B-6 bombers into long-range refueling tankers and recently equipped up to 24 F-8 FINBACK fighters with aerial refueling pods for extended-range missions. The refueling capability has extended the F-8s' combat radius from 431 miles to 632 miles, enabling China "to conduct combat missions over the South China Sea, near Taiwan, along the Sino-Indian border and over the East China Sea."¹³⁵

China is also expanding its air and "blue water" naval capability, together with her new improved missiles, the DF-21X ballistic missile, the Xiong Ying 1500 kilometers ground-launched cruise missile and the air-launched C601 800 kilometers anti-ship missile. China will feel more comfortable to achieve dominance in the disputed areas. Its forward deployment of Sukhoi Su-27 multi-role aircraft allows her to give air protection to surface units eastwards of Luzon and southwards of Borneo. This will be enhanced once China develops an air-to-air refueling capability and takes delivery of her new AWACs, which is currently being developed, for her by Israel. Even more so, with the development of improved strike aircraft like the J11, a locally developed version of the Sukhoi Su-27, the F-10 for aircraft carrier operations, which is also being built with

¹³⁴ Bill Gertz, "China makes upgrades to island base, coastline," *The Washington Times*, 11 February 1999.

¹³⁵ Ibid.

Israeli technology and the Ming and Romeo class submarines.¹³⁶ It is believed that China is also building nuclear submarines, able to range throughout Asia with their payloads of missiles, including nuclear weapons.¹³⁷

Although China never again attempted to confront Vietnam after 1988, it is not a sign that Vietnam has build-up a strong military. Vietnam's military suffer spare parts plus ammunitions shortages, maintenance shortfalls and restricted fuel availability. This greatly reduces the training and operations for the VN and VNAF.¹³⁸ Like China, much of Vietnam's military is preoccupied with business activities and not so much on combat readiness.¹³⁹

China may be considered a second-rate military power, not first-rate, because China is far from capable of taking on the U.S. It is not as third-rate as most of its Asian neighbors.¹⁴⁰ China can take islands at will and poses a formidable threat to Vietnam, as seen in 1988 and 1992, and to the Philippines in the 1995 Mischief Reef incident. Who then would have the capability to challenge China? It is definitely not Vietnam nor the Philippines.

¹³⁶ Brian H. Cooper, "The coming conflict – the battle of the SLOCs," *Asia-Pacific Defence Reporter*, January 2000, pp.11-12.

¹³⁷ "China's Troubling Weapons Buildups," *FBIS Daily Report-East Asia*, available [Online]: FBIS/Search/Vietnam accessed on 2 May 2000.

¹³⁸ Carlyle A. Thayer, *Vietnam's Developing Military Ties With The Region*, Working Paper no. 24, (Canberra: Australian Defense Studies Center, 1994), p.20.

¹³⁹ Betts, "Vietnam's Strategic Predicament," p.79.

¹⁴⁰ Segal, "Does China Matter?," p.29.

Despite the measures taken to improve and enhance its military strength and firepower, Vietnam's military build-up implemented since 1992 has not help into preventing China from advancing in the Spratlys and the South China Sea.

D. WILL VIETNAM'S APPEAL TO UNCLOS PROVIDE A SOLUTION TO THE DISPUTE?

The use of the 1982 UNCLOS or UNCLOS III in any case presupposes an acceptance of joint occupation or legal occupation of different parts of the Spratlys based on division or partition approved by all the parties to the dispute. Such a solution is not at all easy to achieve or even propose. The map produced by Beijing's Cartographic Publishing House shows the entire South China Sea falling within China's sphere. Maritime boundaries are depicted as only 75 kilometers seawards from Brunei, Malaysia, the Philippines, and Vietnam. The EEZs of the Philippines, Malaysia, Brunei, and Vietnam based on the 1982 UNCLOS include some of the Spratly Islands.¹⁴¹ The 1982 UNCLOS, despite its intention to reduce conflict and erase ambiguity, is itself a source of new conflict. The UNCLOS provisions aggravate the present situation in the Spratlys.

Moreover, as said by Greg Austin,

International law has been based on the notion that it is demonstrable jurisdiction over land that gives right to jurisdiction over water, not vice versa. The UNCLOS, despite a view appearing in some scholarly analysis to the contrary, is of no relevance in determining sovereignty of islands. It is silent on the matter of acquisition of sovereignty.¹⁴²

¹⁴¹ Shri Prakash, "The Political Economy of China's Relationship With the ASEAN Countries: Conflict Management in a Multi-Polar World," available [Online] <http://www.idsa-india.org/an-apr-5.html> accessed on 2 February 2000.

¹⁴² Greg Austin, *China's Ocean Frontier, International Law, Military Force, and National Development*, (St. Leonards: Allen & Unwin Australia Pty Ltd., 1998), p.159.

It seemed that the best approach, in terms of international law, logic, and practicality would be to deny extended maritime zones to any of the Spratlys. This concept of extended maritime zones was accepted in the 1982 UNCLOS because it is appropriate to allow coastal populations to have primary responsibility to manage and exploit adjacent resources. Where there is no indigenous population, however, this logic does not apply, and the extended zone should not be permitted. Article 121 (3) is based on this perception and should be interpreted in this manner.¹⁴³

However, if agreement cannot be reached on this approach, a fallback position should be to allow the islets to generate a “regional” zone that would be shared and jointly managed. This position would recognize that the Spratlys have been visited and, to some minimal extent, used by the people of the region for centuries, and that it should continue to be viewed as a shared resource. How a joint-zone could be collectively managed is another matter that needs to be looked into.¹⁴⁴ In sum, the 1982 UNCLOS will not help Vietnam to solve the Spratlys dispute.

E. A PEACEFUL SOLUTION TO THE DISPUTE

The best way to solve the complicated situation in the Spratlys is to transform Southeast Asia, and primarily the South China Sea, into a Zone of Peace, Freedom, and Neutrality (ZOPFAN). This idea, advocated by ASEAN in the 1970s, is valuable as the first necessary step to establish mutual confidence between countries in this region before

¹⁴³ Valencia, Van Dyke, and Ludwig, *Sharing the Resources of the South China Sea*, p.45.

¹⁴⁴ Ibid., p.45.

discussing any further concrete solution for the disputes over the Spratly Islands.¹⁴⁵ ASEAN also sought to get all the nuclear weapons states to agree to the South-East Asia Nuclear Weapon-Free Zone Treaty. The treaty was signed in Bangkok in 1995 by ASEAN countries. Its aim is to turn the region into a nuclear weapons-free zone.¹⁴⁶ If both ideas be realized, it may transform the South China Sea from a potential zone of regional conflict into a zone of peace and cooperation.

Vietnam alone will not be able to solve the Spratlys dispute. Together with the ASEAN states, Taiwan, and the larger Asia-Pacific community, it can be in a better position to solve the dispute and restrain China's advances in the Spratly Islands and the South China Sea.

Vietnamese policy and strategy are clearly related to Vietnam's domestic scenario. The most relevant question here is whether and when the VCP will give up its power. Among most Western observers, the answer is commonly assumed to be soon or not soon enough. What if Vietnam's communist cadres yield power to the military and not to a more participatory democracy? The VCP will reach an ideological crossroads once the current generations of nationalist leaders fade away.

¹⁴⁵ Dao Huu Ngoc, *American Asian Review*, vol.12, no.4, Winter, 1994, pp.23-37. Available [Online] <http://www.paracels.com/srvn's%20view.htm> accessed on 18 April 2000.

¹⁴⁶ "China supports anti-nuke treaty," *The Star*, 28 July 1999. Available [Online] <http://www.thestar.com.my/online/newsreport.asp> accessed on 28 July 1999.

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